AN

HISTORICAL VINDICATION

OF

The Church of England

In point of

SCHISM,

As it ſtands ſeparated from the ROMAN,

and was reformed 1 *Elizabeth.*

by Roger Twysden

Deuteronomy 32. 7.

Remember the days of old, conſider the years of many generations: ask thy father, and he will ſhew thee; thy elders, and they will tell thee.

Jeremiah 6. 16.

Ask for the old paths, where is the good way, and walk therein, and ye ſhall finde reſt for your ſouls.

LONDON:

Printed for *Samuel Speed*, at the Rain-bow in *Fleet-ſtreet*, near the Inner Temple-gate. 1665.

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To the

READER.

I Know how easily men are drawn to believe, their own observations and expressions may prove as welcome to others, as they are pleasing to themselves. And though few books live longer then the Authors who send them to the presse, and fewer avoid an opinion they might have been as well spared as come abroad; yet neither the hazard their makers run, nor the little gain they reap, can hinder those have a Genius that way, from suffering others to be as well Masters and censurers of their thoughts as themselves.

This being then the venture every

writer exposes himself unto, the Reader may not a little marvell how I have been brought to hazard my self on the same Seas I have seen so many Ship-wrackt in. I shall desire him to adde this to what is already in the first chapter, as my Apology.

Reading some times in *Baronius*,[a] that all things were well done in the Catholick Church had venerable antiquity for their warrant, and that the Roman Church did not prescribe any thing as [b] an holy tenet, but such onely as delivered by the Apostles, preserved by the Fathers, were by our ancestors transmitted from them to us; I cannot deny to have thought (for certainly Truth is more ancient then Error) this being made good, and that she did commend them to us, in no other degree of necessity then those former ages had done, but she had much more reason on her side then I had formerly conceived her to have: but

[a] *Veneranda Antiquitas, cujus præscripto cuncta bene geri in Ecclesia Catholica consueverunt.* Baron. *Annal. tom.* 8. *Anno* 692, *n.*5.

[b] *Non pro arbitrio differentium, verbisque pugnantium hominum, sacra dogmata Romana Ecclesia definiret; sed quæ ab Apostolis tradita, à majoribus deducta, à patribus servata accepisset, hæc ipsa, utpote sacrosancta, universæ Ecclesiæ servanda, atq; inviolabili lege custodienda, eadem Ecclesia Romana præscriberet;* Baron. *tom.*7. *Anno* 535. *n.*90.

but in examining the assertions, it seemed to me not onely otherwise, but that learned Cardinall not to have ever been in this consonant to himself, 'confessing the Catholick Church not alwayes, & in all things, to follow the interpretations of the most holy Fathers.

c *Sanctissimos patres in interpretatione Scripturarum non semper & in omnibus Catholica Ecclesia sequitur, tom. 1. Anno 34. n. 213.*

On the other side, it seemed to me somewhat hard to affirm the Papacy had incroached on the *English*, and neither instance when, where, nor how.

Hereupon, as I perused our ancient Laws, and Histories, I began to observe all changes in matters Ecclesiasticall reported by them; in which I had sometimes speech with that learned Gentleman I mention in the first chapter, whom I ever found a person of great candor, integrity, and a true Englishman. I noted likewise how the Reformation of Religion was begun with us, how cautiously our ancestors proceeded, not to invade the Rights of any, but

to conſerve their own. Many years after, I know not by what fate, there was put into my hands (as a piece not capable of anſwer, in relation as well to the fact as reaſon it carried) without at all my ſeeking after it, or hearing of it, a treatiſe of the Schiſme of *England*, carrying the name of one *Philip Scot*, but, as told me, compoſed by a perſon of greater eminency, dedicated to both the Univerſities, and printed *permiſſu ſuperiorum*; truly, in my judgment, neither illiteratly nor immodeſtly writ: but in reading of it, I found ſundry particulars, ſome perhaps onely intimated, others plainly ſet down, I could no way aſſent unto; as that *Clement* the vij. did exerciſe no other auctority in the Church then *Gregory* the great had done, That the Religion brought hither by *Auguſtine* varyed not from that was before the Reformation, That the *Engliſh* made the ſeparation from the Church

Church of *Rome*, That in doing ſo we departed from the Church Catholick.

I was not ignorant it might be found in the writings of ſome Proteſtants, as if we departed from *Rome*; which I conceive is to be underſtood in reſpect of the Tenets we ſeparate from holding Articles of faith, not of the manner how it was made.

Having gone through the book, I began to look over my former notes, and putting them for my own ſatisfaction in order, found them ſwell farther then I expected; *Vrceum inſtitui, exit amphora*: and when they were placed together, I ſhewed them to ſome very good friends, to whoſe earneſt perſwaſions (being ſuch as might diſpoſe of me and mine,) I have in the end been forced to yield, making thee partaker of that I never in-

intended ſhould have paſt farther then their eyes.

Yet in obeying them I ſhall deſire to be rightly underſtood; That as I do not in this take upon me the diſputing the truth of any controverſiall tenet, in difference between us and the Church of *Rome*, ſo I meddle not with any thing after *Pius quintus* came to the Papacy; who firſt by private practiſes, and then open excommunication of her Majeſty, declared himſelf an enemy, & in open hoſtility with this ſtate, which therefore might have greater reaſon to prevent his endeavours, by ſome more ſharp laws againſt ſuch as were here of his inclination, then had been ſeen formerly: with which I meddle not.

Thus the Reader hath the truth, both how I came to compoſe, and how to print this. If he find any thing in it like him, he muſt thank the impor-

portunity of others; if to misdoubt, I give him in the margin what hath lead me to that I affirm; if to dislike, his losse will not be great either in time or cost: and perhaps it may incite him to do better in the same argument, and shew me my errours, which (proceeding from a mind hath not other intent then the discovery of truth) no man shall be gladder to see, and readier to acknowledge then

From my House in
East-Peckham the
22. May M DC LVII.

Roger Twysden.

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An

AN Historical Vindication OF THE Church of England in point of SCHISM.

CHAP. I.

1. IT is now more than twenty yeares ſince defending the Church of *England* as it was ſetled 1 *Eliz.* for the moſt perfect and conformable to Antiquity of any in *Europe*, a Gentleman, whoſe converſation for his Learning, I very much affected, told me, He was never ſatisfied of our agreeing with the Primitive Church in two particulars; the one in denying all manner of Superiority to the Biſhop of *Rome*, to live in whoſe Communion the Eaſt and Weſtern Chriſtian did ever highly eſteem. The other, in condemning Monaſtique living, ſo far, as not onely to reform them, if any thing were amiſs, but take down the very houſes themſelves. To the firſt of theſe I ſaid, We did not deny ſuch a Primacy in the Pope as the Antients did acknowledge, but that he by that might exerciſe thoſe acts he of ſome years before *Hen.* the 8th had done, and had got by encroaching on the *Engliſh* Church and State meerly by their tolerance, which when the King-

dom took to redreſs and reſtrain him in, he would needs interpret a departing from the Church; yet if any made the departure, it muſt be the Pope, the Kingdom ſtanding onely on thoſe Rights it had ever uſed for its own preſervation, which putting in practice, it was interdicted the King, excommunicated by him, *&c.* To which he replyed in effect that of *Henry* the eighth in his book againſt *Luther*, That it was very incredible the Pope could doe thoſe acts he had ſometimes exerciſed here by encroachment; for how could he gain that power and none take notice of it? That this argument could have no force if not made good by Hiſtory, and thoſe of our own Nation, how he had increaſed his Authority here. Which, truly, I did not well ſee how to deny, farther than that we might by one particular conclude of an other; As if the Church or State had a right of denying any Clark going without Licenſe beyond Seas, it muſt follow, it might bar them from going, or Appealing to *Rome*: If none might be acknowledged for Pope without the Kings approbation, it could not be denyed but the neceſſity of being in union with the true Pope (at leaſt in time of Schiſm) did wholly depend on the King. And ſo of ſome other.

2. As for the other point of Monaſteries, I told him, I would not take upon me to defend all that had been done in demoliſhing of them; I knew they had nouriſhed men of Piety and good Learning, to whom the preſent Age was not a little beholding; for, what doe we know of any thing paſt but by their labours? That divers well affected to the Reformation, and yet perſons of integrity, are of opinion their ſtanding might have continued to the advancement of Literature, the increaſe of Piety, and Relief of the Poor. That the King when he took them down was the greateſt looſer by it himſelf. Whoſe opinions I would not contradict, yet it could not be denyed, they were ſo far ſtreyed from their firſt inſtitution,

ſtitution, as they reteined little other than the name of what they firſt were.

3. Upon this I began to caſt with my ſelf how I could Hiſtorically make good that I had thus aſſerted, which in general I held moſt true, yet had not at hand punctually every circumſtance, Law, and Hiſtory that did conduce unto it; in reading therefore I began to note apart what might ſerve for proof any way concerning it: But that Gentleman with whom I had this ſpeech being not long after taken away, I made no great progreſſe in it, till ſome years after, I was conſtreined to abide in *London* (ſequeſtred, not onely from publique, but even the private buſineſſe of my Eſtate) I had often no other way of ſpending my time but the company a book did afford; inſomuch as I again began to turn over our ancient Laws and Hiſtories, both printed and written, whereof I had the peruſal of divers of good worth, whence I collected many notes, and began farther to obſerve the queſtion between us and the Church of *Rome* in that point, not to be whether our Anceſtors did acknowledge the Pope ſucceſſor of St. *Peter*, but what that acknowledgment did extend to: Not whether he were Vicar of Chriſt, had a power from him to teach the Word of God, adminiſter the Sacraments, direct people in the ſpiritual wayes of heaven (for ſo had every Biſhop, amongſt which he was ever held by them the firſt, *Pater maximus in eccleſia*, as one to whom Emperours and Chriſtians had not only allowed a primacy, but had left behind them why they did it, *Sedis Apoſtolicæ primatum ſancti* Petri *meritum, qui princeps eſt Epiſcopalis coronæ* Romanæ *dignitas civitatis ſacræ etiã Synodi firmarit auctoritas*, ſaies [a] *Valentinian* 445. On which grounds, if he will accept it, I know no reaſon to deny his being prime) but whether they conceived his commiſſion from *Chriſt* did extend ſo far as to give him an abſolute authority over the Church and Clergy in *England*, to redreſs, reform, correct, amend all things in

[a] *Valentinian Novel 24. in fin. cod. Theod.*

it, not by advice, but as having power over it, with or against their own liking, and farther to remove, translate, silence, suspend all Bishops, and others of the Spirituality. In short, to exercise all Ecclesiastique authority within this Church above any whatsoever, so as all in Holy Orders (one of the three Estates of the Kingdom) solely and supreamly depended on him, and hee on none but *Christ*; and whether our Forefathers did ever admit him with this liberty of disposing in the *English* Church.

4. To wade through which question there was an eye to be cast on all the times since *Christ* was heard of in *England*, and therfore to be considered how Christianity stood upon the conversion of the *Britans*, the *Saxons*, and since the irruption of the *Normans*, under the first of these we have but little, under the second somewhat, yet not much, under the third the Papacy swell'd to that height, some parts have been constrained to cast it off; and *England* without his assent in that point so to reform it self, as to declare[b] *no manner of speaking, doing, communication, or holding against the Bishop of* Rome, *or his pretensed power or authority, made or given by humane Laws, shall be deemed to be Heresy*. By which it seems those Episcopal Functions he did exercise common with other Bishops (as Baptizing, conferring Holy Orders, *&c.*) it did not deny to be good and valid of his administration.

[b] Stat. 25. Hen. 8. cap. 14.

5. But what those particulars were humane Laws had conferred upon the Papacy, and by what constitutions or Canons those preheminences were given him, was the thing in question, and not so easie to be found, because indeed gained by little and little, I cannot but hold Truth more ancient than Errour, every thing to be firmest upon its own bottom, and all novelties in the Church to be best confuted by shewing how far they cause it to deviate from the first original, I no way doubt but the Religion exercised by the *Britans* before *Augustine* came, to have been

been very pure and holy: nor that planted after from S. *Gregory*, though perhaps with more ceremonies and commands, *juris positivi* which this Church embraced rejected or varyed from, as occasion served to be other, but in the foundation most sound, most orthodox; that holy man never intending such a superiority over this Church as after was claimed. The Bishops of *England* in their condemnation of *Wicliffs* opinions, do not at all touch upon those [c] concerned the Popes supremacy, and the [d] Councell of *Constance* that did censure his affirming. *Non est de necessitate salutis credere Romanam Ecclesiam esse supremam inter alias Ecclesias*, doth it with great limitation and as but an error: *Error est si per Romanam Ecclesiam intelligat universalem Ecclesiam, aut concilium genenerale, aut pro quanto negaret primatum summi Pontificiis super alias Ecclesias particulares*: I conceive therefore the Basis of the Popes or Church of *Romes* authority in *England*, to be no other then what being gained by custome, was admitted with such regulations as the kingdome thought might stand with it's own conveniency, and therefore subject to those [e] stipulations, contracts with the Papacy and pragmatiques it at any time hath made or thought good to set up, in opposition of extravagancies arising thence, in the reformation therefore of the Church of *England* two things seem to be especially searcht into, and a third arising from them fit to be examined.

c *Apud* Knighton. *col.* 2648, *& in fasciculo zizaniorum* Mss *fol.* 64. a col. 1. *in bibliotheca Archiepiscopo Armachani.*

d *Concil. constant.* sess. 8. Art. 41.

e *Vide concordata inter* Hen. 2. & Alexandrum 3. 1172. Edwardum 3. & Gregor. 11. 1373. Henricum 5. & Martinum 5. 1418.

1. Whether the Kingdome of *England* did ever conceive any necessity *jure divino* of being under the Pope united to the Church and sea of *Rome*, which drawes on the consideration how his authority hath been exercised in *England* under the *Britons*, *Saxons* and *Normans*, what treasure was caryed annually hence to *Rome*, how it had been gained, and how stopt.

2. Whether the Prince with th'advise of his Cleargy was not ever understood to be endued with authority sufficient, to cause the Church within his Dominions be by

them reformed, without using any act of power not legally invested in him, which leads me to consider what the Royal authority *in sacris* is. 1. In making lawes that God may be truly honoured. 2 things decently performed in the Church. 3 Profainesse punished, questions of doubt by their Cleargy to be silenced.

3. The third how our Kings did proceed, especially Queen *Elizabeth*, (under whose reformation we then lived) in this act of separation from the sea of *Rome*, which carries me to shew how the Church of *England* was reformed by *Henry* the 8. *Edward* the 6. and Queen *Elizabeth*. Wherein I look upon the proceedings abroad and at home against Hereticks, the obligation to generall Councells, and some other particulars incident to those times.

I do not in this at all take upon me the disputation, much less the Theologicall determination of any controverted *Tenet* (but leave that as the proper subject to Divines) this being onely an historicall narration how some things came amongst us, how opposed, how removed by our ancestors, who well understanding this Church not obliged by any forraign constitutions, but as allowed by it self, & either finding the inconvenience in having them urged from abroad farther then their first reception heare did warrant. Or that some of the Cleargy inforced opinions as articles of faith, were no way to be admitted into that rank, did by the same authority they were first brought in (leaving the body or essence (as I may say) of Christian religion untouched,) make such a declaration in those particulars, as conserved the Royall dignity in it's ancient splendour, without at all invading the true legall rights of the state Ecclesiasticall, yet might keep the kingdome in peace, the people without distruction, and the Church in Vnity.

CHAP. II.

Chap. II.

Of the Britans.

1. I Shall not hear inquire who firſt planted Chriſtian Religion amongſt the *Britans*, whether [a] *Ioſeph* of *Arimathea*, [b] *Simon Zelotes*, [c] S. *Peter* or *Elutherius*, neither of which wants an author, yet I muſt confeſs it hath ever ſeemed to me by their alleadging the [d] Aſian formes in celebrating *Eaſter*, their differing from the rites of *Rome* [e] in ſeverall particulars, of which thoſe of moſt note were, that of *Eaſter*, and baptizing after another manner, then the *Romans* uſed, their often journeying to *Paleſtina*, that they received the firſt principles of Religion from Aſia. And if afterward *Cæleſtinus* the Pope did ſend (according to [f] *Proſper*) *Germanus vice ſua* to reclaim them from *Pelagianiſme*, certainly th'inhabitants did not look on it, as an action of one had authority, though he might have a fatherly care of them as of the ſame profeſſion with him, as a [g] Synod in *France* likewiſe had, to whom in their diſtreſs they addreſs themſelves, to which *Beda* attributes the help they received by *Germanius* and *Lupus*.

[a] Baron. to. 1. A. 35. n. 5.
[b] Niceph. Caliſt. *lib.* 2. *cap.* 40.
[c] Metaphraſtes Junii *de eo vide* Baron. *to.* 1. A°. 60. n. 4. Bed. *l.* 1. *c.* 4.
[d] Beda *lib.* 3. *cap.* 25. *conſer.* Euſeb. *hiſt. lib.* 5. *cap.* 23.
[e] *In multis noſtræ conſuetudini, contraria geritis apud* Bed. *lib.* 2. *cap.* 2. *Auguſt. Britonibus.*
[f] Proſper. *in Chronico Ann.* 432.

2. After this as the *Britans* are not read to have yeilded any ſubjection to the Papacy, ſo neither is *Rome* noted to have taken notice of them, * for *Gregory* the great about 590. being told certain children were *de Britannia inſula* did not know whether the Countrey were Chriſtian or Pagan, and when *Auguſtine* came hither [h] and demanded their obedience to the Church of *Rome*; the Abbot of *Bancor* returned him anſwer: *That they were obedient to the Church of God, to the Pope of* Rome, *and to every godly Chriſtian, to love every one in his degree in charity, to help them in word and deed to be the children of God, and o-*

[g] Beda *lib.* 1. *cap.* 17.
* *Vide cap.* 2. *n.* 2.
* Ioh. Diac. *l.* 1. *cap.* 21. *vita* Gregor. Beda *lib.* 2. *cap.* 1.
[h] Concil. Spelm. *p.* 108.

ther,

ther obedience then this they did not know due to him, whom he named to be Pope nor to be father of fathers.

3. The Abbots name that gave this reply to *Augustine* seems to have been *Dinooth* and is in effect no other then what [i] *Geffry Monmouth* hath remembred of him, that being *miro modo liberalibus artibus eruditus* Augustino *petenti ab episcopis* Britonum *subjectionem diversis monstravit argumentationibus ipsos ei nullam debere subjectionem*, to which I may adde by the testimony of [k] *Beda* their not only denying his propositions, *sed neque illum pro* Archiepiscopo *habiturum respondebant*. And it appears [l] by *Gyraldus Cambrensis*, this distance between the two Churches continued long even till *Henry* the first, induced their submission by force, before which *Episcopi* Walliæ *à* Menevensi *Antistite sunt consecrati, & ipse similiter ab aliis tanquam suffraganeis est consecratus, nulla penitus alii Ecclesiæ facta professione vel subjectione*: the generality of which words must be construed to have reference as well to *Rome* as *Canterbury*; for, a little after, he shewes that though *Augustine* called them to councell, as a legat of the Apostolique sea, yet returned, they did proclaim they would not acknowledge him an Archbishop, but did contemn both himself and what he had established.

4. Neither were the *Scots* in this difference any whit behind the *Britans*, as we may perceive by the letter of *Laurentius Iustus*, and *Mellitus*, to the Bishops and Abbots through *Scotland*; in which they remember the strange perversenesse of one *Dagamus* a *Scottish* Bishop, who upon occasion coming to them did not only abstain eating with them, but would not take his meat in the same house they abode, yet they salute them with the honourable titles of *their dearest lords and brethren*. A certain signe of a wide distance between the opinions of *Rome* then, and now, when men are taught not so much as [m] bid them farewell do not submit unto it, sure our first Bishops know

i Galfrid Monumeten *ubi agit de* Augustino *prope finem.*

k *Lib. 2. cap. 2*

l Giral *Itin. Camb. lib. 2. cap. 1.*

m Baronius *Paræneſis ad Rempub. Venetam* p. 52. *atque his tandem finis esto, sed doleo vehementèr quod absque valete.* Iohannes *enim Apostolus id vetat & cum eo omnis simul Ecclesia quod indignos salutatione justè judicet qui non communicantes* Romanæ *Ecclesiæ omnis penitus sunt salutis expertes* (2. Iohan.)

know no ſuch rule, who placed in their Calendar for Saints and holy men, as well *Hilda*, *Aydon*, and *Colman*, the oppoſers of *Rome*, as *Wilfred*, *Agilbertus*, and others who ſtood for it.

CHAP. III.

Of the increaſe of the Papall power in England *under the* Saxons *and* Normans, *and what oppoſitions it met with.*

1. AFter the planting of Chriſtian religion amongſt the *Saxons*, th' Archbiſhop of *Canterbury* became a perſon ſo eminent, all *England* was reputed his [a] Dioceſe, in the colledge of Biſhops [b] *London* his Dean, whoſe office it was to [c] ſummon Councels, *Wincheſter* his Chancellour, [d] *Saliſbury* or (as ſome) *Wincheſter* his Precetor, or that begun the ſervice by ſinging, [e] *Worceſter* or rather *Rocheſter* his Chaplain, and the other the carrier of his Croſſe: [f] expected no leſſe obedience from *York*, then himſelf yielded to *Rome* [g], *voluntate & beneficio*, it being th' opinion of the Church of *England*, it was but equall [h] *ut ab eo loco manuentur vivendi diſciplinam, à cujus fomite rapuerunt credendi flammam.* The dependence therefore of the Clergy in *England* being thus wholly upon th' Archbiſhop, it will not be amiſſe to take a little view both of what eſteem he was in the Church, and how it came to be taken off, and by degrees transferr'd to a forreign power.

2. Upon the converſion of the *Saxons* here by the preaching of *Auguſtine* and his companions, and a quiet peace ſettled under *Theodore*; [i] to whom all the *Engliſh*

[a] Eadmer. p. 12, 29. p. 137, 1. Gervas. Dorobern. *col.* 1661, 54.
[b] Lyndwood *de penis. cap.* Tanquam.
[c] Gervas. Dorobern. *col.* 1566, 10.
[d] *Sic* Lynd. *ubi ſupra*; *at* Ger. Dorobern. *col.* 1382, 61.
[e] *Sic* Lyndwood, *at* Ger. Dorobern. *col.* 1382, 61. *col.* 1429, 23. Roſ. *at* 1565, 1. Wigor.
[f] Malms. *fol.* 121. a & Dicet. *col.* 437, 64.
[g] Rodulph. *Arch. Epiſt. inter ſcript. x. Angliæ, &c. col.* 1736, 17.
[h] Malms. *fol.* 121. a. [i] Beda *lib.* 4. *cap.* 2.

submitted, [k] Parochiall Churches by his encouragement began to be erected, and the Bishop of *Rome* greatly reverenced in this nation, as being the successour of Saint *Peter* the first bishop of the world, Patriark of the West, that resided in a town [l] held to nourish the best Clerks in Christendome, and the seat of the Empire: insomuch, as the devout *Britan* (who seemes (as I said) to have received his first conversion from *Asia*) [m] did go to *Iudea* as a place of greatest sanctity, so [n] amongst the *Saxons Romam adire magnæ virtutis æstimabatur.* But as this was of their part, no other then as to a great Doctour or Prelate, by whose solicitude they understood the way to heaven, and to a place in which religion and piety did most flourish; so th' instructions thence were not as coming from one had dominion over their faith, the one side not at all giving, nor the other assuming other then that respect is fit to be rendred from a puisne or lesse skilfull to more ancient and learned Teachers. As of late times when certain divines at *Frankford* 1554. differed about the Common-prayer used in *England*, *Knox* and *Whittingham* appealed to *Calvin* for his opinion; and receiving his 200. Epistle, [o] *it so wrought in the hearts of many, that they were not so stout to maintain all the parts of the Book, as they were then against it.* And Doctor *Cox* and some other, who stood for the use of the said Book, wrote unto him, [p] *excusing themselves that they put order in their Church without his counsell asked.* Which honour they shew'd him, not as esteeming him [q] *to have any auctority of Office* over them; *but in respect of his learning and merits.*

3. As these therefore carried much honour, and yielded great obedience to *Calvin*, and the Church of *Geneva* by them, [r] *then held the purest reformed Church in Christendom*: so it cannot be denyed but our Auncestors the *Saxons* attributed no lesse to the Pope and Church of *Rome*, who yet never invaded the rights of this,

k Libr. MS. in aula Trinitatis Cantabrig.

l Hall 20. Hen. 8. f. 179.

m Divisus ab orbe nostro Britannus, si in religione processerit, quærit locum famæ sibi tantū & scripturarum relatione cognitum. Epist. Paulæ & Eustochii de commigrat. Bethlehem, inter opera Hieronymi Script. circa Ann. 386.

n lib. 4. c. 23. Beda.

o Troubles at Frankford pag. xxxvi. Edit. 1575.

p ibid. pag. 11.

q ibid. pag. xlvii.

r ibid. p. xlix.

this, as contrary to the [f] councel of *Epheſus*, and the Ca-
nons of the Church of [t] *England*; but left the Govern-
ment of it to the *Engliſh* Prelats, yet giving his beſt ad-
vice and aſſiſtance for increaſing devotion, and main-
tenance of the Laws Eccleſiaſticall amongſt them, in
which each ſide placed the ſuperiority. From whence it
proceeded that however the Pope was ſought to from
hence, he rarely ſent hither any Legat. [u] In the Coun-
cell of *Calcuith* held about 180. years after *Auguſtine*,
it is obſerved, *a tempore Sancti* Auguſtini *Pontificis ſa-
cerdos* Romanus *nullus in* Britanniam *miſſus eſt, niſi
nos.* And [x] *Eadmerus*, that it was *inauditum in* Britan-
nia, *quemlibet hominum ſuper ſe vices Apoſtolicas gerere,
niſi ſolum Archiepiſcopum Cantuariæ.*

[f] Concil. general. *edit.* Romæ 1608. *to.* 1. *pag.* 498.
[t] Beda *l.* 4. *cap.* 5.
[u] Concil. Spelm. *Ann.* 787. *p.* 293.
[x] *pag.* 58, 43.

4. But after the Pope inſtead of being [y] ſubject, be-
gan to be eſteemed above th' Eccleſiaſtick Canons,
and to pretend a power of altering, and diſpenſing with
them, and what paſt by his adviſe and counſell onely,
was ſaid to be by his authority, he did queſtion divers
particulars had been formerly undoubtedly practic't in
this Kingdom, he ſeeing them, and not ſhewing any diſ-
like at it; as [z] The *receiving Inveſtitures of Churches from
Princes*, [a] *The calling Synods*, *The determining cauſes Ec-
cleſiaſticall without Appeals to Rome*, *The transferring
Biſhops*, &c. but the removing theſe from *England* un-
to a forraign judicature, being as well in diminution of
the rights of the Crown, as of this Church, paſt not with
out oppoſition.

[y] Caus. 2. *q.* 1. *cap.* 7, 15. *q.* 2. *cap.* 2. 3. 4. &c.
[z] Ingulph. *fol.* 500. *a.* 43.
[a] *vide literas* Paſchal. 2. Hen. 1. *apud.* Eadmerum, *pag.* 113. *pag.* 115.

5. For *Anſelm* an *Italian*, the firſt great promoter of
the Papal authority with us, pretending he ought not be
barr'd [b] of viſiting the Vicar of *St. Peter cauſa regiminis Ec-
cleſiæ*, was told as well by the Biſhops as lay Lords, [c] That
it was a thing unheard, and altogether againſt the uſe of
the realme, for any of the great men, eſpecially himſelf
to preſume any ſuch thing without the Kings licence:
who affirmed, [d] *nequaquam fidem quam ſibi debebat ſimul*

[b] Eadmer. *pag.* 38, 35.
[c] Eadmer. *p.* 39, 30.
[d] Eadmer. *pag.* 26, 1.

& Apostolicæ sedis obedientiam contra suam voluntatem posse servare. And the Archbishop persisting in his journy thither, had not onely his Bishoprick seized into the Kings hand, but the Pope being shew'd how his carriage was resented here, did not afford him either [e] *Consilium* or *Auxilium*, but suffered him to live an exile all that Princes time [f] without any considerable support, or adjudging the cause in his favour. Which makes it the more strange that (having found by experience what he had heard before, that it was the King not the Pope could help or hurt him) this visit being so little to his advantage, at his first presenting himself to *Henry* the first, he should oppose [g] that Prince in doing him homage, and being invested by him, a right continued unto that time from his Aunce stors, and by which himself had received [h] the Archbishoprick from his brother, and this on a suggestion that it was prohibited in a councell held at *Rome*: in which he went so far as to tell the King, [i] *quod nec pro redemptione capitis mei consentiam ei de iis quæ præsens audivi in Romano Concilio prohiberi, nisi ab eadem sede interdictorum absolutionis prodeat, à qua constitutionis ipsorum vinculum prodiit.*

e *ibid. pag.* 52, 17.

f--*Nil judicii vel subventionis per Romanum præsulem nacti.* Eadmer. *pag.* 53, 28.

g Eadmer. *pag.* 56, 7.

h Eadmer. *p.* 18, 4. *p.* 20, 35.

i *Ibid. pag.* 70, 9.

6. This is the first, if not the onely time that to what was acted at *Rome* an obedience was required here, as not to be dispensed with but from thence: for it is undoubted, this Kingdome never held it self tyed by any thing past there, till received here; as [k] *Eadmerus* rightly observes, things done there not ratified here to be of no value. And when [l] *Winchelsea* 1296. would have introduced the contrary, it cost him dear, the Clergy forced to reject the command, [m] and the Court to quit her pretenses.

k Eadmer. *pag.* 92, 40. *vide* Concil. Spelm. *pag.* 166, 9.

l Hen. Knighton 1296. *col.* 2491. *vide* Mat. West. & Wm. Thorne.

m *de immunitate Eccles. cap.* 3. *in Sexto. Et Tit. eodem cap.* 1. *in Clement.*

7. But the dispute, however the right stood, grew so high, the King told *Anselme* [n] the Pope had not to meddle with his rights, and wrote that free letter we find in *Iorvalensis*, *col.* 999, 30. which I have likewise seen in

n Eadmer. *p.* 70, 5.

in an old hand recorded amongſt divers other memorialls of the Archbiſhops of *Canterbury*: though I muſt needs ſay it ſeems to me by [o] *Paſchalis* his anſwer, repeating a good part of it, not ſent by thoſe he names, [p] but former meſſengers. In this controverſy the Popes returnes were ſo ambiguous, that he writ ſo differing from their relations were ſent, it was thought fit *Anſelme* ſhould himſelf go to *Rome*: with whom *K. Henry* ſent another, [q] who ſpake plainly, his maſter *nec pro amiſſione regni ſui paſſurum ſe perdere inveſtituras Eccleſiarum*; and (though *Rome* were willing to comply in other particulars) told *Anſelme* denying that, [r] he could not aſſure him of a welcome in *England*, who thereupon retired to *Lyons*: where finding [s] ſlender comfort from *Rome*, he ſought the King by letters, and after by the means of *Henry's* [t] ſiſter made his peace; at which yet he was not permitted (ſuch was his ſpirit) to enter *England*, denying to communicate with them had received Biſhopricks from the King, but by the Popes diſpenſation. The concluſion was, *Paſchalis* taught by experience, neither the Court of *Rome* nor th' Archbiſhop gained ought by this conteſt, however he would not at firſt abate [u] *prædeceſſoris ſui ſententiæ rigorem*, yet now admitted great limitations to what *Vrban* had eſtabliſht. So as the King [x] aſſenting none for the future ſhould be inveſted *per laicam manum* (which was no more, but what he formerly did himſelf, he would now cauſe to be performed by a Biſhop) the other agreed no prelats to be barr'd of promotion, *etiamſi hominia Regi fecerint*, [y] *& hoc donec per omnipotentis Domini gratiam ad hoc omittendum cor regium molliatur*, &c. which yet the King ſoon after, on the Popes permiſſion of them to the Dutch, did threaten [z] *ſine dubio ſe reſumpturum ſuas inveſtituras, quia ille ſuas tenet in pace*; but for ought I find, it went no farther then their ſwearing fealty to the King, which ſeems to have been long [a] continued.

[o] *Apud* Eadmer. *pag.* 59, 48.
[p] *Ibid. pag.* 56. 22.
[q] *Ibid. p.* 73, 13.
[r] *pag.* 75, 27. *ibid.*
[s] *Ibid. pag.* 79, 24.
[t] Eadmer. *pag.* 80, 27.
[u] *Ibid. p.* 63 3.
[x] Eadmer. *pag.* 91, 21.
[y] *Ibid. p.* 87, 35.
[z] *Ibid. p.* 100, 1.
[a] Gervas. Dorobern. *Anno* 1187. *col.* 1503, 36. R. *de* Glanvilla *Abbati de Bello, &c. præcipio tibi ex parte Domini Regis, per fidem quam ei debes & per ſacramentum quod ei feciſti, &c.* W^m. Thorn, *Ann.* 1220. *col.* 1873, 56. Hugo 3. *Abbas* S^ti. Auguſtini *gratanter admiſſus juravit fidelitatem D. Regi ſuper crucem ipſius legati.*

8. The Papacy finding by this conteſt the difficulty of carrying any thing here by an high hand, thought of more moderate wayes for bringing the Clergy of this nation wholy to depend on *Rome*; but that could not be without diminiſhing the power the Archbiſhop held over them, and therefore muſt be wonne by degrees: to advance which nothing could more conduce, then to have a perſon of wiſdome reſide here, who might direct this Church according to the Papall intereſt. But this was thought fit to be given out before practic't, and likely to be doubly oppoſed; for th' Archbiſhop well un-

[b] Mat. Paris pag. 440, 17. Anno 1237. Lond. 1640.

derſtood the admitting a Legat for that end to be[b] *in ſuæ dignitatis præjudicium:* And the King ſuffered none to be taken for Pope, but whom he approved, nor any to receive ſo much as a Letter from *Rome*, without acquainting him with it, and held it an undoubted right of the Crown, [c] *ut neminem aliquando legati officio in Anglia fungi permitteret, ſi non ipſe, aliqua præcipua querela exigente, & quæ ab Archiep: ſcopo Cantuariorum cæteriſque Epiſcopis regni terminari non poſſet, hoc fieri à Papa poſtularet*, &c.

[c] Eadmer. pag. 125, 53. p. 6, 25. p. 113, 1.

9. Things ſtanding thus in the year 1100. th' Archbiſhop of *Vienna* coming into *England*, [d] reported himſelf to have the Legatine power of all *Britain* committed unto him; which was with ſo much admiration of the Nation (as a thing had not been heard of before) that (if he had any) at leaſt he thought not fit to make uſe of his Commiſſion, but departed *a nemine pro Legato ſuſceptus, nec in aliquo Legati officio functus.*

[d] Eadmer. pag. 58, 41.

10. Fourteen years after [e] *Paſchalis* the 2. by Letters of the 30. of *March* and 1. of *April*, expoſtulates with the King about ſeverall particulars; of which one is, his admitting neither meſſenger nor Letter to be received, but by his leave: but ſee the words; *Sedis Apoſtolicæ nuncii vel literæ præter juſſum regiæ majeſtatis nullam in poteſtate tuâ ſuſceptionem aut aditum promerentur, nullus inde*

[e] Eadmer. p. 113. p. 116.

inde clamor, nullum inde judicium ad ſedem Apoſtolicam deſtinantur, &c. and the year following addreſt [f] *Anſelme* (nephew to the late Archbiſhop, and after Abbot of *St. Edmundsbury*) hither, ſhewing by Letters he had committed unto his adminiſtration *vices Apoſtolicas in Anglia*. This made known here (though the bearer were not permitted to enter the Kingdom) the Clergy and Nobility gathered in councell at *London* concluded th' Archbiſhop ſhould go to the King in *Normandy*, make known unto him the antient cuſtome of the Realme, and by his advice to *Rome*, (as being the perſon was moſt intereſſed in it) *ut hæc nova annihilaret*; from whence he obtained the Letter, or rather declaration to the King and Clergy the ſame author hath grecorded. So [g] by this care the matter was again ſtopt.

[f] Eadmer. pag. 118, 28.

[g] pag. 120.

11. The King 1119. [b] ſent his Biſhops to a Councell held by *Calixtus* the 2. at *Reims*, at their departing gave them theſe inſtructions: Not to complain of each other, becauſe himſelf would right each of them at home; That he payed that rent his predeceſſors had formerly done, and enjoyed likewiſe thoſe priviledges had been formerly permitted them; That they ſhould ſalute the Pope from him, hear his precepts, but bring no ſuperfluities into his Kingdome: but ſee the words; *Rex Anglorum prælatis regni ſui ad Synodum ire permiſit; ſed omnino ne alicujusmodi querimoniam alterutrum facerent, prohibuit: Dixit, omni plenariam rectitudinem conquerenti faciam in terra mea: redditus ab anterioribus conſtitutos Romanæ Eccleſiæ ſingulis annis errogo, & privilegia nihilominus ab antiquis temporibus pari modo mihi conceſſa teneo. Ite, dominum Papam de parte mea ſalutate, & Apoſtolica tantum præcepta humiliter audite, ſed ſuperfluas adinventiones regno meo inferre nolite*, &c. Certainly this prince did hold, the Pope with the advice of a Councell might labour to introduce ſuperfluous inventions, which the *Engliſh* were not tyed to receive, the diſputes of his Biſhops

[b] Ordericus Vitalis pag. 857, d. pag. 858, a.

shops be by him ended at home without carrying their complaints beyond Seas, according to th' Assize; of *Clarendoun*; the King in nothing obliged to *Rome*, but in the payment of *Peter-pence*, as his father had before expreſt himſelf.

i cap. 8.

k Baron. to. 11. anno 1079. n. 25. & Lanfranci Epiſt. 7.

12. In *November* following the Pope and King had a[l] meeting at *Giſors* in *Normandy*, where *Calixtus* confirmed unto him the uſages his father had practic't in *England* and *Normandy*, and in eſpeciall that of ſending no Legat hither, but on the Princes deſire. Yet notwithſtanding the ſame[m] Pope not fully two years after addreſt another Legat to theſe parts: but he by the Kings wiſdome was ſo diverted, *ut qui Legati officio fungi in tota Britannia venerat, immunis ab omni officio tali via qua venerat extra* Angliam *à Rege miſſus eſt*, &c.

l Eadmer. p. 125, 51.

m Eadmer. pag. 137, 46. pag. 138, 21.

13. But here by the way the reader may take notice, theſe words, [n] *Collata*, [o] *Impetrata*, *Conceſſa*, *Permiſſa*, uſed by our beſt authors in ſpeaking of the Rights of the Crown in points of this nature, do not import as if it had onely a delegatory power from the Pope by ſome grant of his, as is fancied by thoſe[p] would have it ſo; for we read of no ſuch conceſſions from him, unleſſe that of *Nicholas* the 2. of which in the next: But that they were continually exerciſed, the Pope ſeeing, & either approving, or at leaſt making no ſuch ſhew of his disliking them, as barr'd their practice, which by comparing the ſaid authors is plain. *Eadmerus*, *p.* 125, 53, 54. ſpeaks as if theſe cuſtomes were *conceſſa*, *fungi permiſſa* from *Rome*; which *pag.* 118, 33, 40. he calls *antiqua Angliæ conſuetudo*, *libertas Regni*, &c. So *pag.* 116, 22. he terms them *privilegia Patri & Fratri ſuo, ſibique à Romana Eccleſia jam olim collata*, &c. about which yet it is manifeſt, even [q] by him, the Court of *Rome* was ever in conteſt with our Kings about them, who maintained them as their Royalties againſt it, and challenged by *Henry* the 1. by no other title then [r] *dignitates*, *uſus*, & *conſuetudines*,

n Eadmer. pag. 116, 23.

o Ibid. p. 125. 21.

p Anſwer to Sr. Ed. Cook, *de jure Regis Eccleſiaſt.* c. 9. n. 8. p. 200.

q Eadmer. p. 6, 23. & lib. 2. per totum. p. 113, 1. &c. p. 115.

r Hen. 1. Epiſt. apud Jorval. col. 999, 46, 49.

nes, quas Pater ejus in regno habuit, &c. which the Pope [f] calls *honores quos anteceſſorum noſtrorum tempore Pater tuus habuerat*, and affirmes to be *grata in ſuperficie, --- interius requiſita & Legati vocibus expoſita, gravia & vehementiſſima paruerunt*: ſo far have Popes been from conferring the leaſt unto them. ſee *cap.* 3. *n.* 19.

[f] Eadmer. p. 59, 50.

14. It is true, things done by Princes as of their own Right, Popes finding not means to ſtop, would in former ages as later, by priviledge continue unto them. *Nicholaus Papa hoc Domino meo privilegium, quod ex paterno jure ſuſceperat, præbuit*, [t] ſaid th' Emperours Advocate. And the ſame Pope finding our Kings to expreſſe one part of their Office to be *regere populum Domini, & Eccleſiam ejus*, wrote to *Edward* the Confeſſor, *Vobis & poſteris veſtris regibus* Angliæ *committimus advocationem ejuſdem loci, & omnium totius* Angliæ *Eccleſiarum, & vice noſtra cum Concilio Epiſcoporum & Abbatum conſtituatis ubique quæ juſta ſunt.* As a few years ſince, [u] the Republick of *Venice* not aſſenting to ſend their Patriarch to an examination at *Rome*, according to a Decree of *Clement* the 8th, *Paulus Quintus* declared that *impoſterum* Venetiarum *Antiſtites* Clementis *decreto eximerentur*: ſo that now that State doth by an exemption what they did before as Soveraign Princes. Beſides, Kings did many times as graunts ask thoſe things of the Pope, they well underſtood themſelves to have power of doing without him. [x] *Henry* the 5th. demanded of *Martin* the 5. five particulars: to which his Ambaſſadors finding him not ſo ready to aſſent, told him *ſe in mandatis habere, ut coram eo profiteantur, Regem in iis ſingulis jure ſuo uſurum, utpote quæ non neceſſitatis, ſed honoris cauſa petat, & ut publicam de eare coram univerſo Cardinalium cœtu proteſtationem interponant.* And to the ſame purpoſe there are ſundry examples yet remaining on record, where [y] the King on the petition of the Commons for redreſſe of ſome things (of Eccleſiaſtick

[t] Baron. 11. *Ann.* 1059. *n.* 23.

[u] Maurocen. *Hiſt. Ven.* *Ann.* 1601. p. 629. c. *Ann.* 1609. p. 687. b. *Card.* Oſſat. *Epiſt. Romæ* 17. *Sept.* 1601.

[x] *Narrantur hæc* p. 56. 57. *in vita* Henrici Chichley *ab* Arthuro Duck *edit.* 1617.

[y] *Rot. Parl.* 17. Ed. 3. *n.* 59. *in fine.* 25. Ed. 3. *Oct. purif. n.* 13. 7. H. 4. *n.* 114. 3. H. 6. *n.* 38.

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cognizance) amisse, first chuses to write to the Pope; but on his delay, or failing to give satisfaction, doth either himself by statute redresse th' inconvenience, or command the Archbishop to see it done.

15. But here before I proceed any farther, because it cannot be denyed, in former times there was often intercourse between the Church of *England* and *Rome*, and such as were sent from thence hither are by some styled *Nuncii*, by others *Legati*; I think it not amisse to consider what the cause was one side so much opposed the sending a Legat, and the other so laboured to gain it.

16. After the erection of *Canterbury* into an Archbishoprick, the Bishops of that See were held *quasi alterius orbis Papæ*, as *Vrban* the 2. [z] styled them, did onely exercise [a] *vices Apostolicas in Anglia*, that is used the same power within this Island the Pope did in other parts; the one [b] claiming, because *Europe* had been converted by disciples sent from *Rome*; the other, that he had sent [c] preachers through *England*. And is therefore called frequently in our writers [d] *princeps Episcoporum Angliæ*, [e] *Pontifex summus*, [f] *Patriarcha*, [g] *Primas*, and his seat [h] *Cathedra Patriarchatus Anglorum*; and this not in civility onely, but they were as well [i] *sic habiti* as *nominati*. It is true, the correspondency between it and the *Roman* was so great, they were rather held one then two Churches: yet if any question did arise, the determination was in a councell or convocation here; as [k] the deposing *Stygand*, [l] the settling the precedency between *Canterbury* and *York*, [m] the instructions I mentioned of *Hen.* 1. to his Bishops, [n] the right of the Kingdome that none should be drawn out of it *auctoritate Apostolica*, do enough assure us; if recourse were had to *Rome*, it was onely [o] *ut majori Concilio decidatur quod terminari non potuit*, as to the more learned divines, to the elder Church, of greatest note in *Europe*, by whom these were conver-

ted,

See cap. 4. n. 20.

z Malms. *de Pontif. l. 1. in Anselm. fol. 127. 15.* Gervas. Dorobern. *col. 1527, 58.*

a Eadmer. *p. 58, 44.*

b *Ibid. p. 115, 17.*

c Diceto *col. 437, 64.*

d Eadmer. *pag. 27, 34. principi vestro* Anselmo.

e *Ibid. p. 107, 35. pag. 113, 47.*

f Gervas. Dorobern. *col. 1663, 55.*

g Eadmer. *p. 30, 9.*

h Eadmer. *pag. 113, 47.* *continuatio* Florent. Wigorn. *Ann. 1136. pag. 513.*

i Gervas. Dorobern. *col. 1663, 55.*

k Florent. Wigorn. *Ann. 1070.*

l *post, n. 18, 20, 60.*

m *supra n. 11.*

n *vid.* Mat. Paris *Ann. 1246. p. 699, 10. vide post n. 38. in textu & in margine.*

o Malms. *fol. 152. b. 12. see n. 8.*

ted, and therefore more reverenced by this, as that was moſt ſollicitous of their well-doing, and moſt reſpected for their wiſdome. All which is manifeſt by that humble Letter *Kenulphus* & others of *Mercia* wrote about 797. to *Leo* the 3. wherein it plainly appears, he ſeeks to that See for direction, becauſe the converſion of the Nation firſt came from thence, and there reſided in it men of ſound learning, whom he doth therefore deſire as *quibus à Deo merito ſapientiæ clavis collata eſt, ut ſuper hac cauſa* (which was the placing an Archiepiſcopall chair at *Litchfield,*) *cum ſapientibus veſtris quæratis, & quicquid vobis videatur nobis poſtea reſcribere dignemini.* By which it is clear his inquiſition was as unto perſons of profound literature, (had the key of knowledge conferred on them) not as to thoſe had auctority over this Church.

o Ibid. de Regibus lib. 1. fol. 16.

17. As for acts of Eccleſiaſtick auctority, what proceeded not from the King, did from th' Archbiſhop, who was not at all commanded by any, *p nullius unquam legati ditioni addictus*, but *q* preceded them all. *r* None did were a Miter within his Province, or had the Croſier carried, nor layd any excommunication; and when he did, the *ſ* Clergy of the place did teach, both from the King and Archbiſhop, not to value it, on this ground, that *in Diœceſi Archiepiſcopi Apoſtolicam non tenere ſententiam.*

p Gervas. Dorobern. *col.* 1663, 55. *q Ibid. col.* 1485, 63. *r Non eſt ante hæc tempora Archiepiſcopo* Cantuarienſi *talis illata injuria, ut in Provincia ejuſdem archiepiſcopi, immo & in Eccleſia, ut de cruce fileam, Legatus aliquis mitratus incederet.* Gervas. Dorobern. *Ann.* 1186. *col.*

18. As for Councells, it is certain none from *Rome* did, till 1125. call any here: if they did come to any, as to *Calcuith*, the King upon the Adviſe of th' Archbiſhop *t ſtatuit diem concilii.* So when *William* the firſt held one at *Wincheſter* 1070. for depoſing *Stygand*, though there came to it three ſent from *Alexander* the ſecond, yet it was held *u jubente & preſente Rege*, who was *x* preſident of it. The difference touching precedency between the

1485, 63. *ſ* Ger. Dorobern. *Ann.* 1187. *col.* 1531, 38. *t Concil.* Spelman. *pag.* 293. *u* Florent. Wigorn. *Ann.* 1070, *pag.* 454. *x Vita* Lanfranci *cap.* 7. *p.* 7. *col.* 1. d.

Sees of *Canterbury* and *York* having been before the same Pope, and by him sent back for a determination at home, it is observable, that in a Councell said therefore to be called *ex præcepto* Alexandri *Papæ annuente Rege*, the Popes Legat subscribed the 16th. after all the *English* Bishops: as is truly y recorded in the *Antiquitat. Britannicæ Ecclesiæ p.* 95, 40. agreeing with a very ancient Ms. copy I have seen of the said Councell; as *Diceto* and others do z rank him after the King, *Canterbury*, and *York*. If any shall ask whether I have met no copies in which he was placed otherwise, I must confesse I have seen some books wherein he was above the *English* Bishops, next after the Queen; but they were onely late Transcripts, not of any Antiquity, as in a a book of *Crouland* writ since the beginning of *Henry* the 7.

y Note, you must see these subscriptions in the *London* edition 1572. for in that of *Hanau* 1605. they are for the most, (I know not on what warrant,) omitted.

z Diceto *col.* 485, 24.

a *in Bibliotheca* Cotton *fol.* lxxiiii.

19. The Pope for many years now past, for being a Spirituall Pastor, and Patriarch of the West, hath been treated with more reverence than any Bishop, and for being a potent temporall Prince, with more observance then meerly a Ghostly Father. A b grave writer notes, *Henry* the first having gone through the troubles were on him with his brother, and likewise *Anselm*, *subjugatis omnibus inimicis securus erat, nec aliquem ut primitus formidabat præter Papam, & hoc non propter spiritualem, sed temporalem potestatem.* Which as it is recorded of that Prince, so no question is true of many others.

b Mat. Paris *hist. minor. Ann.* 1107.

20. By which we may see, when *Rome* did in former times *Apostolica authoritate præcipere*, it was to Bishops (whom he styled his brothers,) no other then such fraternall commands the elder may and doth ordinarily lay upon the younger brother, of whom he is sollicitous; such as St. *Pauls* were c to the *Thessalonians*, d *Philemon*, &c. No other then of late *Calvins* were to *Knox*, who being chosen by certain of *Franckford* to be Preacher unto them, e *their vocation* he obeyed, albeit *unwillingly*, *at the* commandment *of that notable servant of*

c 2 *Thess.* iii. 12.

d *Philem.* 8.

e Knox *Hist. Church of* Scotland *p.* 93. *edit.* 1644.

of God Iohn Calvin, &c. And a little after the Lords of *Scotland* ſending for him home, [f] did accompany their letters to him with others to *Mr. Calvin*, *craving of him*, *that* by his auctority he would command *the ſaid Iohn once again to viſit them*, &c. And truly whoſoever will without partiality ſeriouſly conſider the whole contexture of our Lawes and Hiſtories, weighing one circumſtance with another, muſt conclude the Popes commanding to have been *volentibus*, not *nolentibus*, (as [g] *St. Hierom* ſays thoſe of a Biſhop ought to be) for if diſliked, his precepts were [h] queſtioned, [i] oppoſed, [k] thoſe he ſent not permitted to meddle with that they came for, their prohibitions that others ſhould not, neglected: The *Engliſh* having ever eſteemed the Church of *Canterbury* in Spiritualls, that is *quæ ſunt ordinis*, without any intervening ſuperior [l] *omnium noſtrum mater communis ſub ſponſi ſui* Ieſu Chriſti *diſpoſitione*; in other things, as points of Government, the ordering that of right and cuſtome ever to have belonged to the King aſſiſted * with his councell of Biſhops, and others of the Clergy, who was therefore called *Vicarius Chriſti*, &c. as I ſhall ſhew hereafter more at large. [m] The Church of *England* holding that of *St. Auguſtine* an undoubted truth, *In hoc Reges, ſicut eis divinitus præcipitur, Deo ſerviunt in quantum Reges ſunt, ſi in ſuo regno bona jubeant, mala prohibeant, non ſolum quæ pertinent ad humanam ſocietatem, verum etiam quæ ad divinam religionem*: and accordingly our Kings, ſo far as any Laws or Records of their actions are extant, from *Ethelbert* by the *Saxons* to the Conqueſt, and from the *Normans* to theſe later times, have upon occaſion exerciſed a power, ſhewing ſuch titles were not in vain conferred on them. Neither did any deciſion, though never ſo punctually

[f] *Ibid. p.* 110.

[g] *Epitaph.* Nepotiani *ad* Heliodorum *to.* 1.
[h] Eadmer. *pag.* 92, 40.
[i] Gervas. Dorobern. *col.* 1315, 66. 1316, 8. & 1318, 39. 1359, 41, 59. Wmus Thorn 1802, 26. 1848, 28. and theſe may ſerve in lieu of many others may be alledged.
[k] Ger. Dorobern. *col.* 1558, 54.
[l] *Ibid. col.* 1663, 24. *col.* 1615, 62.
* *Si Epiſcopi tramitem juſtitiæ in aliquo tranſgrederentur, non eſſe Regis*, (viz. alone,) *ſed canonum judicium, ſine publico & Eccleſiaſtico Concilio illos nulla poſſeſſione privari debuiſſe; Regem id non rectitudinis zelo, ſed commodi ſui compendio feciſſe.* Malms. *fol.* 103. a. 18. reports this ſaying of a Legat. *ſee n.* 24.
[m] *Contra* Creſcon. *Grammat. li.* 3. *cap.* 51. *n.* 7.

had in *Rome*, unleſſe the parties agreed, ſtint the ſtrife, till the King concurred with it; as the frequent determinations on the behalf of *Canterbury* in point of ſuperiority above *York*, found in [n] *Malmsbury* and others, may teach us, which yet never received a finall end, till *Edward* the 3. under the great ſeal ſet a [o] period to that long controverſy.

21. But after the Pope began to think (or rather to ſay) himſelf had onely [p] *plenitudo Eccleſiaſtica poteſtatis*, [q] that no Councell could give Laws to him, but all receive ſtrength from him, and the Canoniſts flattery extended to declare him [r] *ſupra jura, & in eo ſufficit pro ratione voluntas*; his miſſives ran in an higher tone then formerly, and his commands, which were at firſt according to [s] th' example of *St. Paul* joyned with exhortations, entreaties, and the like, to carry [t] *Apoſtolica auctoritate comprimere*; and to th' Archbiſhop demurring in th' execution of them, [u] *tuum candelabrum concutiemus, & tantam præſumptionem cum gravibus uſuris exigemus*; and, [x] *ſi mandatum noſtrum neglexeris vel diſtuleris adimplere, quia juſtum eſt ut ei obedientia ſubtrahatur qui ſedi Apoſtolicæ neglexerit obedire, venerabilibus fratribus ſuffraganeis tuis per ſcripta noſtra mandavimus, ut tibi reverentiam non impendant. Quodſi* &c. *tibi feceris exhiberi, ſcias te tunc ab Epiſcopali dignitate ſuſpenſum*, &c. phraſes and manners of writing denoting much more of auctority then was uſed by Popes in elder times. By which is manifeſt, the point in difference between the Archbiſhop and the Pope to have been not the ſending a Legat hither, but of one with a power above him, to command the *Engliſh* Clergy, that is to remove their dependency from him to *Rome* as a ſuperior over him.

22. To his gaining which theſe uſages of th' Archbiſhops were great ſtops, drawing ſo near an equality, and ſo pregnant teſtimonies of his no-divine right to meddle

n Malms. *de Pont. lib.* 1. *fol.* 118, a. *to fol.* 120, b.
o *Antiquit. Britan. Eccleſiæ, in* Simone Iſlep. *p.* 269, 15.
p *De auctoritate & uſu Pallii cap.* 4.
q *De Electione & electi poteſtate c.* 4.
r Lyndwood *de temp. ordinand. cap.* 2. *ad verbum expreſſe.*
s *Philip.* iiii. 3.
t Wm. Thorn. col. 1801, 53.
u *Ibid.* 1814, 34.
x Gervas. Dorobern. *Ann.* 1193. *col.* 1602, 64.

meddle here, not easy to be removed, unleſſe ſome from the Pope were admitted into the Kingdome, that might at leaſt give an eſſay to the guiding the *Engliſh* Church after the papall intereſt: but that, how earneſtly ſoever preſt, came to no effect till 1125. *Iohannes Cremenſis*, a perſon well underſtanding (as[y] appeares by his carriage ſix years before at *Reims*) the deſignes of *Rome*, [z] came to the King in *Normandy*; where after ſome ſtay, his journey hither was permitted; with what qualifications I find not; but coming with Letters to *Canterbury* at Eaſter, performed th' Office of the day in a more eminent chair as an Archbiſhop, for ſo I Engliſh *loco ſummi Pontificis*, according to the [a] phraſe of thoſe times, and, though a Cardinall prieſt, uſed *inſigniis Pontificalibus* the habit of a Biſhop: which being [b] an unuſuall novelty, paſt not without ſcandall. But in a councell which he held and preſided in at *London*, the Kingdom took more offence: I ſhall deliver it in my authors own words; [c] *Totam Angliam in non modicam commovit indignationem: Videres enim rem eatenus regno Anglorum inauditam, Clericum ſcilicet Presbiterii tantum gradu perfunctum, Archiepiſcopis, Epiſcopis, Abbatibus, totiuſque regni nobilibus qui confluxerant, in ſublimi ſolio præſidere; illos autem deorſum ſedentes, ad nutum ejus vultu & auribus animum ſuſpenſum habentes.* From whence we may conclude it a thing before not heard of, for any Legat, though a Cardinall, to precede Biſhops, (the firſt Councell in which they preceded Archbiſhops I take to have been the Councell of *Vienna* 1311. where th' Archbiſhop of *York* is noted to have been placed [d] *primus & præcipuus poſt Cardinales, & poſt Trevirenſem Archiepiſcopum*;) or be ſeated in a more eminent place over them; (I have [e] ſhew'd they did not ſubſcribe in *Engliſh* Councells above them;) that theſe mutations were ſcandalous to the nation.

23. As this is the firſt Eccleſiaſtick Synod called and managed

y Ordericus Vitalis *pag.* 862.

z Simeon Dunelmenſis *Ann.* 1125, *col.* 251, 61.

a Eadmer. *pag.* 107, 33. *pag.* 113, 4. Ger. Dorobern. *col.* 1663, 55.

b *Inuſitata novitas.* Dorobern. *Ibid.*

c Ger. Dorobern. *Acta Pont. ibid. col.* 1663, 42.

d Thomas Stubs, *Act. Pont. Ebor. col.* 1730, 50.

e *Supra* 18.

managed by any Legat from *Rome*; so before his credentiall [f] Letters from *Honorius* the 2. as well to the Lay as Clergy, I have not met with the Text [g] *Pasce oves meas* used to prove him the generall Pastor of all the World: it is true, *Paschalis* the 2. [h] ten years before uses it to prove his auctority over [i] Bishops; but neither doth [k] *Anselme* 1095. produce it, neither doth this Cardinall at [l] *Reims* 1119. mention it, though either of them did alleadge as many places of Scripture as were then common to prove th' extent of his power; and *Petrus Blesensis*, that lived a little after, [m] interprets it as spoken to all Bishops, and to import no other then *Evangelizare*: a certain signe, if that exposition were hatch't before, it was not common, which afterward approved by [n] St. *Bernard*, and inserted into [o] the Canon Law by *Bonifface* the 8. about the year 1300. is now stood upon as the Basis of papall greatnesse. But to return to that we were on.

f *Apud* Sim. Dunelm. *col.* 252. 22.
g *Iohn* xxi. 15, 16, 17.
h *Apud* Eadmer. *pag.* 115, 9. *Anno.* 1115.
i *Ecclesiarum præpositi.*
k Eadmer. *pag.* 27, 37.
l Ordericus Vitalis *pag.* 862, *&c. omnes.*
m Petr. Blesens. *Epist.* 148.
n *De consideratione ad* Eugen. *lib.* 2. *cap.* 8.
o *Ext. Com. de Majoritat. & obedient. c.* 1.

24. The Archbishop sensible of these indignities, proceeds not as his predecessor, by joynt Councell of the Bishops, Abbots and Nobility, but hath himself recourse to *Rome* (who already knew [p] *se convertere ad oratorum versutias, dummodo consulat suis profectibus*) where the Pope, (which was *Honorius* the 2.) committed unto him [q] *vices suas in* Angliâ & Scotiâ, & *Apostolicæ sedis Legatum constituit*: So that he who before was [r] *Primas* Angliæ, Scotiæ & Hiberniæ, *necne adjacentium insularum*, that none else [s] *gerebat vices Apostolicas in Britannia*, and this of his own right, without any delegatory power, might now doing the same be said to do it by a power derived from *Rome*. An invention highly advantagious to the Papacy: for before the King and Archbishop, or rather the Archbishop by the Kings will and appointment, had ever taken cognizance of all matters of Episcopacy; as the erection of Bishopricks, disposing and translating Bishops, &c. So *Paschalis* the

p Malms. *de Pont. lib.* 1. *fol.* 131. b. 39.
q Gervas. Dorobern. *col.* 1663, 64.
r Eadmer. *pag.* 14, 13. *pag.* 30, 9. *pag.* 93, 3.
s *Ibid.* 58, 43.

the 2. expoſtulates with *Hen.* the 1. [t] that *prater auctoritatem noſtram Epiſcoporum tranſlationes præſumitis*, &c. and the * depoſing of them to have been in a Synod [u] Hiſtorians of all times before aſſure us, even unto *Lanfrank*, who [x] attempted it upon ſmall grounds againſt *Wolſtan*. As for dividing Biſhopricks, and erecting new where none were, [y] *Theodore* did five in *Mercia cum conſenſu Regum & principum*, (without ever ſending to *Rome*) as he did others [z] elſewhere. And *Henry* the 1. long after placed Epiſcopall Chaires at *Ely* and *Carliſle*, without acquainting the Popes with it. It is true, *Anſelme* an *Italian*, either not knowing the rights of the Kingdome, or rather out of a deſire to intereſt the Pope in every thing, writes to him of *Ely*, that [a] *de veſtra pendet auctoritate prudentia* to adde ſtrength to Eccleſiaſtick ordinances of this nature; yet it is clear by his very Letter, the King, Biſhops and Nobility had already concluded on it, with whom he had concurr'd, asking *Paſchalis* aſſent after the deed done: which ſhews rather he did it in civility, then of neceſſity, *ne à poſteris ulla præſumptione violetur*, that no cavilling might ariſe in the future to the diſturbance of an action well ſettled, that paſt by ſo great advice, as not onely the *Engliſh* Church, but the firſt Biſhop of the world and Patriarch of the Weſt joyned in ſeeing the needfulneſſe of it. And it is here not unworthy the remembring, that *Q. Mary*, how much ſo ever addicted to *Rome*, yet admitted the [b] Biſhops of thoſe Sees her Father had erected during the ſchiſm (as they called it) to ſit in Parliament, before any confirmation of them by the Pope.

25. Of theſe and the like, though caſes proper for the [c] Papacy alone, yet being without ſcruple exerciſed

t *Apud* Eadmer. *p.* 115, 48. &
* *pag.* 129, 52. *ſee n.* 20.
u *See* Bed. *lib.* 4. *cap.* 2, 6. Gervas. Dorobern. *col.* 1638, 37.
x Mat. Paris 1095, *pag.* 20, 46. Ailredus *col.* 406, 10.
y Flor. Wigor. *pag.* 559,
z Beda *lib.* 3. *cap.* 7. *lib.* 4. *cap.* 6, 12. *li.* 5. *cap.* 19.
a Eadmer. *pag.* 95, 50.

b Gloceſter *and* Cheſter *in Parliament* 1 *Mar.* 2 *April* 1554. *Parl.* 2. *item Parl. the* 3. 12 *November* 1554. *W. and*

2. *Ph. & Mar. Iournall des Seigneurs*: yet the Act of reconciling this Kingdome to *Rome*, and confirming thoſe Biſhopricks by the Pope, paſt not till the 30. of *November* after, however they were reputed lawfull Biſhopricks before. c *Caus.* 3, *quæſt.* 6. *cap.* 7. *& de Tranſlat. Epiſt. cap.* 2. Bellarm. *lib.* 4. *de Eccleſ. cap.* 8. §. *Ratio*, &c.

in the Church of *England*, and no controul from *Rome*, it would not be easy to dispossesse the Archbishop of medling with, by strong hand, especially on an essay made before in the case of *Wilfred*, it being affirmed, [d] *quod esset contra rationem, hominem jam bis à tota Anglorum Ecclesia damnato, propter quælibet Apostolica scripta communicare*: the way therefore of making him the Popes Legat was invented, by which those particulars he did before without interruption of his own right, he (whom it was not easy to barre of doing them) might be said to act as his agent: which was about [*] this time first committed unto him of any Archbishop of *Canterbury*; though [e] *Baronius*, not finding how the very same past before, fancies *Theodore* to have done them, *cui totius Angliæ à Romano Pontifice veluti Apostolicæ sedis Legato cura credita erat*; who certainly if he were his Legat, was very immorigerous in the case of *Wilfred*. But to leave that as a *Chimæra* not to be assented to, mentioned by no ancient author, it is true, not long after he conferr'd the title of *Legatus natus* on th' Archbishop, [f] of which hereafter.

d *Apud* Malmsb. *fol.* 152, a. 34.

* 1127.

e Baron. *tom.* 9. *Ann.* 676. *n.* 19.

f *In.* 40. p. 38

26. To return to th' Archbishop, who came home with this Legatine power 1127. [g] crowns the King at *Windsor*, and in *May* following holds a Councell at *Westminster*, *cui præsedit ipse, sicut Apostolicæ sedis legatus*; which is the first Councell any Archbishop is noted to have held as a Papall Legat; and during his life, which was seven years, *England* did not see any other.

g Florent. Wigorn. *Annis* 1126. 1127. *& alii.*

h *Apud* Malmsbur. *fol.* 101. Iohannes Hagulstad. *col.* 259, 9. Richardus Hagulstad. *col.* 314, 18. *vid. col.* 313, 32.

27. After his death the See of *Canterbury* lay two years vacant, so a fit time for the Pope to look this way, especially K. *Stephen* making it part of his title, that he was [h] confirmed by him in his Kingdome: therefore 1138. *Innocentius* the second sent hither *Albericus* Bishop of *Hostia*, the second stranger I find exercising the Legatine auctority in *England*; yet he was not at first received for one, but [i] *vix tandem pro reverentia*

i Gervas. Dorobern. *col.* 1344, 6.

Domini

Domini Papæ. He indeed went farther then ever any had, for he not onely called the Clergy *Apoſtolica auctoritate* (as our Hiſtorians terme it) to a Synod, (I confeſſe he avoyds the word in his letters of ſummons, ſtyling it [k] *colloquium*, perhaps not to enter into diſpute with the King, who then took himſelf to be the onely [l] caller of them, and the allower of what they did) but did farther command the Prior and Convent of *Canterbury*, &c. [m] to chuſe ſuch an Archbiſhop, *cui ſacrorum canonum auctoritas in nullo valeat obviare, cui comprovinciales Epiſcopi pariter debeant aſſentire, & cui Dominus Rex nec poſſit nec debet aſſenſum ſuum juſte denegare*: but farther not at all intromitting himſelf. And in the Councell he held, amongſt other particulars, he ordained, that if any injured an Eccleſiaſtick perſon, [n] *Niſi tertio admonitus ſatisfecerit, anathemate feriatur, neque quiſquam ei præter Romanum Pontificem, niſi mortis urgente periculo, modum pœnitentiæ finalis injungat.* This is the firſt that by Canon, ought done in *England* was referr'd to *Rome*, as having a greater power then the *Engliſh* Biſhops to abſolve: (of the Laws of *Hen.* the 1. I ſhall ſpeak [o] hereafter.) But whether it were not here much regarded, or th' exceſſes uſed by King *Stephen* againſt certain Biſhops, and the prohibiting a Councell held at *Wincheſter* to ſend to *Rome*, as [p] againſt the dignity of the realm, or that he freed of impriſonment deſired to make ſo potent a party, as the Clergy then was, more of his ſide, I cannot ſay; but aſſuredly it was again renewed in a [q] Councell at *London* about ſome four years after.

28. The ſame Pope 1139. conferr'd upon *Henry*, K. *Stephens* Brother, and the potent Biſhop of *Wincheſter*, this Legatine power, which was by him publiſh't in a Councell at *Wincheſter*, where his faculties were read [r] bearing date the 1. *March*; and being as well [s] *Angliæ Dominus* by reaſon of the power he held with *Stephen*, as *Apoſtolicæ ſedis Legatus*, he called thither

k Gervas. Dorobern. col. 1346, 58.
l Eadmer. p. 6, 29. p. 24. 11.
m Ger. Dor. ibid. lin. 65.
n Cap. 9. apud Gervas. Dorob. 1348. & Richard. Haguſt. 328.
o n. 30.
p Malms. fol. 103. a. 1. b. 54, 55.
q H. Hunt. fol. 225. a 36. Ann. 1142, 8. Steph.
r Malms. fol. 103. a. 31.
s Ger. Dorobern. col. 1343, 44.

thither th' Archbishop that had then some contest with the Monks of St. *Augustines*, (whom the Pope generally favour'd against him) referr'd to his decision from *Rome*, so that he caused both parties the [z] second time to appear there before him 1143. as Legat, and by compromise ended the business. Yet this calling of the Archbishop [a] unto him was not taken well: and the same year 1143. he did by Apostolick command restore *Ieremy*, removed by *Theobald*, (notwithstanding his appeal to *Rome*) to be Prior of *Canterbury*: which restitution the said Prior did not think fit to stand by, but for avoiding trouble took an 100. marks to pay his debts, and placed himself in St. *Augustines*. By these carriages there grew great distasts between these two great Prelats: the one as Archbishop prohibited *Winchester* [x] all Ecclesiastick functions, however the Popes Legat; and both apply themselves to the Pope; from whence our Historians do fetch the use of Appeals to *Rome*; as indeed there could not well be any cause of them before: for as the one case is the first ever any Archbishop was called out of his Diocese to make answer to any Legat as his Superior; so I believe it will be hard to give an example of ought done by th' Archbishop in his own Bishoprick till now alter'd by a forreign auctority. And here, having mentioned the introducing of Appeals, the reader will give me leave to digresse a little, both to shew what is meant by them, and the manner of prosecution of them; and then [y] to return, and observe the event of the Archbishops and Legats in the Court of *Rome*.

[z] W^m. Thorne col. 1853, 32.

[a] Gervas. Dorobern. col. 1665, 24. *indignatus Theobald.*

[x] Iohan. Hagulstad, col. 275, 42. *interdixit Episcopo, Episcopale & sacerdotale officium.*

[y] Num. 40.

29. It cannot be denyed, the word *Appeal* to have been used in former times with reference to the Papacy. [z] *Cum præsul sedem Apostolicam appellasset*, sayes *Malmsbury* of *Wilfred*; and a Councell held in *Italy* concerning him, [a] *Apostolicam sedem de suâ causâ appellans*:

[z] Malmsb. f. 149, a. 50.

[a] Bed. lib. 5. cap. 20. & in Ingulpho MS. seu additionibus ejus, in Bibliotheca Cotton.

and

and ſo of ſome others. Yet nothing is more certain then thoſe in whoſe time this was did not at all hold the Pope to have any power of righting him, other then by interceſſion; not as a ſuperior Court, by ſentencing in his favour, to undo what had paſt *Theodore*; (* without whoſe aſſent the King could not have deprived him of his ſeat,) for when the Popes [b] Letters were brought hither for his reſtitution, *Egfrid*, with th' adviſe of his Biſhops, not onely refuſed, but clapt *VVilfred* in priſon; and after his death the [c] Pope ſending others *vita graves & aſpectu honorabiles*, *Alfrith* though he received the men with great reverence, yet would by no means admit the reſtauration they came about, but affirmed it againſt reaſon to do it (he having been twice condemned) *propter quælibet Apoſtolica ſcripta*. And as this was in a time when Chriſtianity moſt flouriſhed in this Nation, having in generall [d] *fortiſſimos Chriſtianoſque Règes*; ſo of the Kings that did it, of *Egfrid* [e] *Beda* left, that he was *piiſſimus & Deo dilectiſſimus*: neither can he find any other thing to blame in *Alfrith* worthily, and the Biſhops that did [f] concur in the action were [g] holy men, well ſeen in divine and ſecular learning; ſo that it is not imaginable any thing paſt them not warranted by the Doctrine and rules of this Church.

* Stubs *de Archiepiſc. Ebor. col.* 1691. 10.

b Malm. *fol.* 150, a, 43.

c *Ibid. fol.* 152. a. 32, 34.

d Beda *lib.* 4. *cap.* 2.

e *Apud* Malmsbur. *f.* 10. b, 23, 36.

f Stubs *de Archiepiſc. Ebor. in* Wilfrido *col.* 1691, 10.

g Bed. *lib.* 4. *cap.* 2. *cap.* 9. *lib.* 5. *cap.* 20.

30. For the underſtanding of which, we are to know the word *Appeal* is taken ſeverall wayes; ſometimes [h] to accuſe, ſometimes for referring our ſelves to ſome one for his judgment; ſuch was that of *VVilfreds* appealing to *Rome*, as to a great ſpirituall Doctor and Church whoſe judgment was very venerable in the World, as of late *John Calvins* and the Church of *Geneva* was to them of *Scotland* and *Frankford*, &c. another way we take it for removing a cauſe from an inferior to a ſuperior Court or Iudge, that hath power of diſannulling whatſoever the former did; and this is that our Hiſtorians affirm not to have been in uſe till af-

h *Blaſius Daſium de proditione appellabat.* Liv. *lib.* 26. *ſuch were thoſe Appeals in Parliament, the* 11. *and* 21. *of* Ric. *the* 2. *which might be otherwiſe called accuſations.*

ter 1140. It is certain, long after *VVilfred* [i] the Bishops and Nobility did assure *Anselme*, that for any of the great ones, especially him, to have recourse to *Rome* without the Kings leave, to be *inauditum & usibus ejus omnino contrarium*; and therefore required of him an Oath, *quod nunquam amplius sedem Sancti Petri, vel ejus vicarium, pro quavis quæ tibi ingeri queat causa appelles*. I know *Anselm*, an *Italian*, where the opinion of the Papall absoluteness had now begun to root, did maintain this was *Petrum abjurare*, and that *Christum abjurare*, and is the first of our Bishops spake any thing in that sort; with whose sense the Kingdome did not concur in it. For it is manifest, in those dayes and after, Appeals to *Rome* were not common. In the year 1115. [k] *Paschalis* the 2. expostulates with *Henry* the 1. that *Nullus inde clamor, nullum judicium ad sedem Apostolicam destinatur*: and again, [l] *vos oppressis Apostolicæ sedis appellationem subtrahitis*. And *Anselme* himself speaking of the proceeding of the King in a case by him esteemed onely of Ecclesiastick cognizance, lays down the manner to be, that it should be onely [m] *ad singulos Episcopos per suas parochias, aut si ipsi Episcopi in hoc negligentes fuerint, ad Archiepiscopum & primatem*; adding nothing of carrying it to *Rome*, of which I know no other reason, but that it was not then usuall to remove causes from the Primate thither. Yet after this, either the importunity of the Pope prevailed with the * King, or the passage was inserted after his dayes into the Lawes carry his name; (as some other in the same chapter may seem to have been) but certain in them though he give for a rule that of Pope [n] *Fabian* or *Sixtus* 3. *ibi semper causa agatur ubi crimen admittitur*, yet a Bishop erring in faith, and on admonition appearing incorrigible, [o] *ad summos Pontifices* (the Archbishops) *vel sedem Apostolicam accusetur*. This is the onely case wherein I find any *English* Law approve a forreign judicature.

i Eadmer. pag. 39, 21, 30.

k *Apud* Eadmer. p. 113, 3.

l *Ibid.* p. 115. 33.

m pag. 85, 41.

* Henry the 1st.

n Fabiani Epist. 3. & Sixti 3. tom. 1. Concil. & apud Gratian. c. 3. q. 6. cap. 1.

Leg. Hen. 1. cap. 5. p. 178. 28.

o Leg. Hen. 1. pag. 179, 9.

31. But

31. But whether from the countenance of this Law, or the great oppreſſions uſed by the Legat King *Stephens* Brother, or the frequency of them, it is certain, 1151. ÷ Appeals were held a [p] cruell intruſion on the Churches Liberty; ſo as in the Aſſize at *Clarendoun* 1164. collected by the body of the Realm, [q] the 8. Chapter is ſolely ſpent in ſhewing the right of the Kingdome in that particular: which [r] *Iohannes Sarisburienſis* interprets, *quod non appellaretur pro cauſâ aliquâ ad ſedem Apoſtolicam, niſi Regis & Officialium ſuorum venia impetrata.* Upon which the Biſhop of *London* moved *Alexander* the third, *Beckets* cauſe might be determined [ſ] *appellatione remota*: at which the Pope ſeems to be moved, and told him, *hæc eſt gloria mea quam alteri non dabo.* And though it ſeems by a [t] Letter of the ſame Prelat, the King would have reſtrained his power onely to ſuch as had firſt made tryall of receiving juſtice at ∴ home, claiming *ex antiqua regni inſtitutione, ob civilem cauſam nullus clericorum regni ſui fines exeat*, &c. and that too, if amiſs, would have corrected by th' adviſe of the *Engliſh* Church: yet while th' Archbiſhop lived, that would not be hearkened to; but after his death, at the peace which 1172. enſued between him and the Church of *Rome*, it was onely concluded, the King not to hinder Appeals thither in Eccleſiaſtick cauſes, yet ÷ ſo as a party ſuſpected before his going was to give ſecurity not to endeavour *malum ſuum nec regni.* But the Kingdom meeting in Parliament at *Northampton* 1176. not fully four years after, would not quit their intereſt, but did again renew th' Aſſize of *Clarendoun*, uſing in this particular ſomewhat a more cloſe expreſſion: ∴ *Iuſticiæ faciant quærere per conſuetudinem terræ illos* ∴ *qui à regno receſſerunt, & niſi redire voluerint infra ter-* ſ. *minum nominatum, & ſtare in curia Domini Regis, utlagentur*, &c. in effect the ſame as *Gervaſius Doroberneſis* well underſtood, who tells us, [u] *Rex Angliæ* Henricus

[p] Hunt. *fol.* 227. b. 7. & *alii.*
[q] Gervas. Dorobern. *col.* 1387.
[r] *Epiſt.* 159. *pag.* 254.
[ſ] Gervas. Dorobern. *col.* 1396.
[t] *Apud* Hoveden, *Ann.* 1166. *fo.* 287. b. 44. *apud* Dicet. *Ann.* 1168.
∴ *Apud* Hoved. *fol.* 314. b. 3.
[u] Gervas. Dorobern. *Ann.* 1176. *col.* 1433, 1434.

Henricus *convocatis regni primoribus apud* Northamptoniam, *renovavit assisam de* Clarendonia, *eamque præcepit observari; pro cujus execrandis institutis beatus martyr* Thomas Cantuariensis *usque in septennium exulavit, & tandem glorioso martyrio coronatus est.*

32. After which the going to *Rome* remained during this Kings and his Son *Richard's* time, onely according to their pleasures, the Clergy lying under the penalty of this Law, if they did attempt farther then the Princes liking: of which we have a very pregnant example in the case of *Geffrey* Archbishop of *York*, K. *Richards* Brother, who accused to *Cœlestinus* 3us that he did not onely [x] refuse Appeals to *Rome*, but imprisoned those who made them; upon it the Pope [y] commits the cause to be heard by the Bishop of *Lincoln* and others, who thereupon [z] transfer themselves to *York*, where hearing the Testimonies of those appeared before them, assigned him a time to make his defence to the Pope. But the Archbishop being then well with his Brother, pretended he could not present himself in *Rome* [a] for the Kings prohibition, and the indisposition of the aire. Not long after the King and he fell so at odds, [b] *quod præcepit illum dissaisiri de Archiepiscopatu suo*, &c. *Cœlestinus* upon this takes an opportunity to declare a suspension to be notifyed through all the Churches of his Diocese, injoyning, what the King had before, the Lay as well as the Clergy, [c] *ne ipsi Archiepiscopo vel officialibus ejus in temporalibus respondere præsumant, donec de ipso Archiepiscopo aliud duxerimus statuendum.* The offence with his Brother still remaining, the Bishop expecting now no help at home, goes upon this to *Rome*, makes his peace with the Pope, and returns: but the King [d] committed the care even of the Spiritualls of his Archbishoprick to others, without permitting him or his Agents to meddle with ought, till about two years after he [e] reconciled himself to the Crown; after which he gave *Innocentius*

x *Epist. Cœlestini apud* Hoveden. *Ann.* 1195. *fol.* 426. b. 26.

y *Eadem Epist.*

z *Idem, f.* 427. a. 26. *lin.* 38.

a Hoveden, *Ann.* 1195, *fol.* 427. a. 48.

b *Ibid. f.* 428. a. 42.

c Hoved. *Ann.* 1196. *fol.* 434. a. 23.

d *Ibid. fol.* 435. b. 52.

e *Ibid. fol.* 442. b. 19.

tius 3us occaſion to write, f *Non excuſare te potes ut debes, quod illud privilegium ignoraris, per quod omnibus injuſte gravatis facultas patet ad ſedem Apoſtolicam appellandi, cum & tu ipſe aliquando ad noſtram audientiam appellaris*; and a little after, *Nec auctoritatem noſtram attendis, nec factam tibi gratiam recognoſcis, nec appellationibus defers quæ interponuntur ad ſedem Apoſtolicam*, &c. And about the ſame time g *Robert* Abbot of *Thorney*, depoſed by *Hubert* th' Archbiſhop, was laid in priſon a year and half without any regard had of the Appeal by him made to the Pope: and this to have been the practice during King *Richards* time, the continued quarrells of Popes for not admitting men to appeal unto them doth fully aſſure as.

f Hoveden, *Ann.* 1201. *fol.* 465. a. 21

g Hoveden, *Ann.* 1195. *fol.* 430. b. 37.

33. But *Innocentius* 3us having prevailed againſt King *John*, and the Clergy great inſtruments in obtaining *Magna Charta* from that Prince, either in favour of them, or for ſome other reaſon, there was inſerted, h *Liceat unicuique de cætero exire de regno noſtro & redire ſalvò & ſecurè per terram & per aquam, ſalva fide noſtra, niſi in tempore guerræ per aliquod breve tempus*: which clauſe ſeems likewiſe to have been in that of *Henry* the 3. to his Fathers i *in nullo diſſimilis*: after which it is ſcarce imaginable how every petty cauſe was by *Appeals* removed to *Rome*, and th' Archbiſhop forced to appear before any had the leaſt auctority from thence.

h *Magna charta apud* Mat. Paris *pag.* 258, 53. *Lond.* 1640.

i Mat. Paris *Ann.* 1224. *pag.* 323, 28.

The Popes themſelves wiſe men ſaw th' inconvenience, that theſe carriages muſt end either in rendring th' Archbiſhop contemptible, by taking all power out of his hands, or the Realm reſume its ancient right, and prohibit the carrying ought beyond ſeas, or admitting any Legat into the Kingdom; thought of the way of granting ſeverall priviledges to the Archbiſhoprick, which firſt began about the time of *Innocentius* the 2. whom others followed.

34. *Gregory* the ninth therefore moved by one of them

them (which seems to be St. *Edmund*) writes thus unto him: [k] *Vt cum appellationis remedium non ad defensionem malignantium, sed ad oppressorum subsidium sit inventum*, yet th' Archbishop attempting sometimes *excessus corrigere subditorum, quidam eorum, ut correctionem effugiant, appellationes frustratorias interponunt, quibus si cite pro reverentia sedis Apostolicæ humiliter deferatur, illi ex impunitate deteriores effecti pejora præsumunt, & alii eorum exemplo redduntur ad vitia proniores; unde humiliter postulastis*, &c. -- *ut providere super hæc solita diligentia deberemus: ut igitur auctoritati tuæ in rectis dispositionibus nihil tali prætextu deesse contingat, fraternitati tuæ præsentium auctoritate concedimus, ut, non obstante* * *frivolæ appellationis objectu, libere valeas in corrigendis subditorum tuorum excessibus officii tui debitum exercere.*

[k] *Bulla Gregor. ix. in antiquo MS. dat.* Interamnæ *27. Iunii,* 1236.

* Frivola Appellatio *quæ dicitur, vide* Lindwood *cap. 2. verbo* frivole, *de Appellationibus. scil. quæ vana & inanis--vel quando nulla causa est expressa, vel non legitima, dato quod sit vera, vel licet sit legitima, est tamen manifeste falsa. Et vide ibid. verbo* Pallietur.

35. ∴ And for that his Agents here in their citations of th' Archbishop did not use that respect unto him which was fit, but as *Gervasius Dorobernensis* observes of one of them, [l] *Legati privilegium plusquam deceret extenderet in immensum, suumque Archiepiscopum & Episcopos Angliæ ut sibi occurrerent quolibet evocaret*; the same Pope did therefore declare, that, *cum nimis indecens videatur, ut per literas Apostolicas tacito* * *tuo nomine dignitatis inter privatas personas stare judicio compellaris, nos fraternitatis tuæ precibus inclinati, auctoritate tibi præsentium indulgemus, ut per literas à sede Apostolicâ impetratas quæ de dignitate tua non fecerint mentionem respondere minime teneris*; &c. Dat. *Viterbii* 4. Non. *Martii*, Pontif. nono.

∴ *At* Viterbo 4. *Martii*, 1235. l *Col.* 1665, 23.

* *Sic MS. sed legendum* tuæ.

36. ∴ And becaufe th' Archbiſhop had on many ſlight occaſions been drawn beyond ſeas, to the great impoveriſhing th' Epiſcopacy, the ſame Pope two months after writes, *Ea propter, venerabilis in Christo frater, tuis ſupplicationibus inclinati, fraternitati tuæ auctoritate præſentium indulgemus, ut per literas Apoſtolicas extra* Angliam.

∴ *At* Perusium 6 *Maii* 1235.

Angliam *invitus non valeas conveniri, niſi de indulgentia hujuſmodi fecerint eæ literæ mentionem, aut per te aliquod factum fuerit per quod ſit indulgentiæ huic derogatum.* Dat. *Peruſii* 4. Non. *Maii*, Pontificat. nono.

Innocentius 4. *ut nullus ſine ſpeciali Apoſtolicæ ſedis licentia, præter Legatos ipſius ab ejus latere deſtinatos, in perſonam tuam præſumat excommunicationis ſententiam promulgare.* Lugduni 13. Kalend. *Octob.* Pontif. 4. *At* Lions *the* 19 *September*

37. It would be tedious to repeat all the bulls found in the ſaid old MS. and other books ſince 1130. (for before it ſeems there was none in this kind) to conſerve ſome power in th' Archbiſhoprick, yet ſo as it might ever depend on *Rome*; and how much the Papacy gained by theſe, every man ſees.

I. The right of th' Archbiſhoprick was, *none by appeal might remove any Eccleſiaſtick cauſe from his judicatory:* the Pope grants, *he ſhall proceed notwithſtanding a frivolous Appeal.*

II. The right was, *he was not at all under any Legat:* the grant is, *he ſhould not be tyed to anſwer, if they did not mention his dignity in their citations.* *See before* n. 17.

III. The right was, *he ſhould not be drawn beyond the ſeas* (of which in the next:) the grant is, *he ſhould not be compell'd to go, unleſſe mention were made of that Bull.*

IIII. The queſtion was, *whether the Pope might excommunicate any within the Dioceſe of Canterbury*: the grant is, *None but a Legate* de latere *ſhould th' Archbiſhop.* *Cap.* 2. n. 17.

Yet certainly Popes did what they well could, retaining to themſelves that vaſt power they then pretended, to conſerve in the Archbiſhoprick ſome auctority.

38. But the frequent citing him and others out of the Realm, and the carrying their cauſes to *Rome*, did not at all ſatisfy the ſubject; whereupon the body of the Kingdome, [m] in their querulous letter deviſed and ſent by them to *Innocentius* 4^tus. 1245, (or rather to the

[m] *Apud* Mat. Paris *p.* 603.

Councell at *Lions*) claim as an especiall privilege, That no Legat ought to come here, but on the Kings desire, [n] *& ne quis extra regnum trahatur in causam*: and at the revising of *Magna Charta* by *Edward* the first, the former clause was left out, since when none of the Clergy might go beyond seas but with the Kings leave, as the [o] writs in the Register, and the [p] Acts of Parliament assure us; and what is more, if any were in the Court of *Rome*, the King called them [q] home, not permitting any to go or abide there longer then his pleasure. Yet I do not say these times do not furnish examples of Appeals or recourse thither, or receiving commands from thence; I know the contrary: but it was onely between those, and in such cases, as the King (holding good correspondency with the Pope) and State did either tacitely connive at, as in matters of small moment, or expressely give allowance unto: for if otherwise, no person was so great, but he was forced to gain his pardon for the offence. To which purpose th' example of the * rich Bishop of *Winchester* may not be unfitly remembred, who being a Cardinall of the Kings blood, was employed by *Martyn* the 5. as generall against the *Bohemians*, and to that end erected the Crosse 1429. 8. *Hen.* 6. but two years after caused a petition to be exhibited in Parliament, [r] *That he the said Cardinall nor none other should be poursued, vexed, impleded, or grieved by the King, his heyres or successors, nor by any other person, for cause of any Provision, or offence, or misprision done by the said Cardinall against any statute of Provisions, or per cause of any exemption, receipt, acceptation, admission or execution of any Bulls Papall to him in any manner made*: Which was granted, and shews that without it he had been lyable to punishment for his accepting and receiving of them. And here it is not unworthy the re-

n *Note*, this is omitted in the copy of this letter in *Mat. Paris* which is found in other MS. copies of the same, as in one my learned friend Mr. Wm. *Dugdale* helped me to the sight of, the Book it self belonging to Mr. *Roper* of *Lincolns* Inne, in which it is fol. 117, *b*. and ought to be in all; for in the *Gravamina Anglia* sent to the same Pope 1246. one is, *quod Anglici extra regnum in causis auctoritate Apostolica trahuntur*. Mat. Paris pag. 699, 10.

o Regist. 193, b. Cook, Instit. 3. pag. 179.

p *Parl.* at *Cambridge* 12. Ric. 2. *cap.* 15. *apud* Henricum Knighton *col.* 2734, 40. 5. Ric. 2. *cap.* 2.

q Hen. Knighton *col.* 2601, 44. * *Henry Beaufort.* r Rot. *Parl.* 10. Hen. 6. *n.* 16.

membring

membring, that this was the first Cardinall *England* ever saw a Privy Councellor. He having sometimes sought that dignity in *Henry* the 5ths time, upon the news, the Archbishop of *Cant.* gave the King notice of it, in a letter yet extant; which did so affect that Prince, as he was sometimes heard to say, * *that he had as lieve set his crown beside him, as see him wear a Cardinals hat.* But he being soon after taken away, and the honour conferr'd on this Prelate in *Iune* 1426. by *Martin* the 5. * at his coming into *England*, the Lords of his Maties Councell caused him to make a Protestation for his comportment in the future; and the 8th of *Hen.* the 6. it was agreed by the Lords in Parliament, he should be on the Kings part required to attend his Maties Counsells, *sub protestatione tamen subsequente, quod quotiens aliqua, materiæ, causæ, vel negotia ipsum Dominum* Regem *aut* regna *seu* dominia sua *ex parte una, ac sedem Apostolicam ex parte altera concernentia, hujus concilii regiis communicanda & tractanda fuerint, idem Cardinalis se ab hujusmodi consilio absentet, & communicationi earundem causarum, materiarum, & negotiorum non intersit quovis modo,* &c. and yet his former engagement made to the Councell to be firme and inviolable. Upon which the said Cardinall the 18. of *December* 8. *H.* 6. *Ann.* 1429. after his thanks to the King and Lords, and his admitting the said Protestations *tanquam rationi consonas*, was received for one of the Councell. But I return to that I was treating of.

*. *Halle* 20. Hen. 6. The complaint made by the Duke of *Glocester* against the said Cardinall, Art. 2.

* *Rot. Parl.* 8. Hen. 6. *n.* 17.

39. The truth of this barring Appeals is so constantly averr'd by all the ancient monuments of this Nation, as one not finding how to deny it, falls upon another way, [f] that if the right of Appeals were abrogated, it concludes not the See of *Rome* had no jurisdiction over this Church, except one should be so senselesse as to imagine the Prefect of the Pretorian Court were not subject to th'Emperors auctority, because it was not law-

[f] *Philip Scot* of Schism of England *pag.* 174.

full to appeal from them, according to the Law in the
ff. de officio Præfect. Prætor. leg. unica. vide Cassiodor. lib. 6. variar. 3.
t Digests. To which I answer, that if it be granted (which is very disputable) this Law is to be extended to th' Emperor, yet it proceeded from himself, who might limit his own power: but he is desired to consider, this canon of Appeals did not from any Pope; for the *Africans* did, and the Church of *England* doth maintain it as an inherent right of their own, to give Laws in that particular, and ever had strong contests with the Papacy about it, which held it an honour not to be parted with; and they opposing him in it, must of necessity have held that superintendency he exercised over them not to be *jure divino*, for then no man could have exempted himself from having recourse unto him. In *France* there are severall Courts of Parliament from which no Appeal lies, who receiving that priviledge from the King, it cannot be said to be in diminution of his Royalty, because that they have, he gave: but if ever any of them should claim this as of their own right, denying the King to have at any time a power of intermedling with them, I shall leave the objector to draw what consequence he will from it; for my part I can no other, but that they esteemed themselves very little his subjects.

40. The reader will pardon this digression, which I have the longer stood upon, to give him the more full satisfaction how Appeals were first brought in, and how pursued; I shall now, in what manner the Legat and Archbishop prosecuted theirs: who being [a] both before *Lucius* the 2. 1144. the Bishop of *Wincheſter* was [x] dismist his legatine commission; and the Pope finding with how great difficulty the Ecclesiastick affairs of this Kingdome could be managed by any Legat without the Archbishop of *Canterbury*, thought of a very subtile invention to conserve his own auctority, and not have any crossing with that Prelat, which was to create him and his successors *Legati nati*; by which, such things

[a] Wm. Thorn col. 1804, 44.
[x] Iohan. Hagulstad. col. 273, 61. *Ann.* 1145.

as

as he did before, and had a face of enterfeering with the Papal plenitude, and were not ſo eaſy to deveſt th' Archbiſhop of exerciſing, he might be ſaid to do by a Legatine power: of which it was not long before the Pope made uſe, as is to be ſeen in his [y] *Decretalls*; where *Alexander* the 3. reſolves he could not hear *jure metropolitico* matters Epiſcopall that came not unto him *per appellationem*, (that is in a legall way) but *jure Legationis* he might ſuch as were brought unto him onely *per querimoniam*: an invention [z] often practic't afterward, and highly advantagious to the Court of *Rome*, as what made Biſhops but his Deputies.

41. The [a] *Antiquitates Britannicæ Eccleſ.* and from him [b] *Harpsfield*, ſpeak as if this honour were firſt beſtowed on *Theobald*; which it ſeems to me could not be, till the taking it away from *Wincheſter* by *Lucius* the 3. after the death of *Innocentius* 2. [c] *Diceto* ſayes, *Cæleſtinus* 3. (about ſome ten years after *Lucius*) beſtowed on *Hubert plenitudinem poteſtatis in officio Legationis inauditam à ſeculis*. I confeſſe I do not well underſtand in what it did conſiſt, that had not been formerly heard of, to whom the Pope had committed [d] *Vices ſuas in Anglia & Scotia*; but it fully proves that power derived from *Rome* was then looked on as a thing newly crept in. But whoſoever did firſt confer it, the matter is not great: certain it is, by it the Papall auctority was not a little in time increas't, there being none of the Clergy almoſt to queſtion ought came from *Rome*, the Archbiſhop, on whom the reſt depended, himſelf operating but as a Delegate from thence.

42. To which purpoſe it may not unfitly be obſerved, that when the Papacy did firſt attempt the exempting ſome great monaſteries from the juriſdiction of their Ordinary, it was [e] *ſalva primatis reverentia*, or, as *Malmſ-*

y *De Officio Legati cap.* 1.

z *Vide* Rochell. *Decreta Eccleſ. Gallican. pag.* 918. *Concil. Trident. ſeſſ.* 5. *cap.* 1. 2. & *multis aliis locis.*

a *In* Theobaldo *p.* 115, 47. *edit.* 1572.

b *Seculo* xii. *p.* 328, 15.

c *Ann.* 1195. col. 679, 7.

d Ger. Dorobern. *col.* 1663, 64. ∴ The Biſhop of Ely 1191. ſays *Rich.* the 1. acquired him that honour. *Ger. Dorobern. col.* 1565, 46. and the King himſelf expoſtulates in *Hoveden* with the Biſhop of *Hoſtia*, that it coſt 1500. marks. *Hoved. Ann.* 1190. *col.* 380. b. 14. So that the Court of Rome knew how to turn this, notwithſtanding all oppoſition, to its no ſmall advantage. e Eadmer. 62, 34. Malms. *f.* 137. a. 5.

bury

bury explains it, *Archiepiscopi tantum nutum in legitimis spectaturus*. But however thus carefully penned not to thwart with th' Archbishop, being brought hither was taken away by *Lanfrank*, not permitted to be made use of, the Abbot finding no other way to regain it but [f] *multorum preces*. Yet afterward the Pope without scruple exempted them not onely from their Diocesan, but even such as were under th' Archbishops nose, with all pertaining to them, were taken out of his own jurisdiction; and he who at first preserved others rights, had those houses now at an [g] easy rate removed from his own. A fact of infinite advantage to the Papacy, by which it had persons of learning in all parts, who depending wholy on it, defended what was done to be by one had a power of doing it; and he who at first did solely [h] *agere vices Apostolicas in Anglia*, was [i] under no Legat, permitted no Bul from *Rome* to be made use of in *England*, but by his approbation, was so far now from taking them away from the bearers, as [k] private Clerks by deputation from thence did sit his superiors in determining differences between him, and others who by strength were taken from his jurisdiction.

43. After which, Popes having gained an entrance, found means to reduce the grant of *Legatus natus* to no more then stood with their own liking, by inventing a new sort of Legat styled *Legatus à latere* ([l] by reason of his near dependance on the Popes person) who employed in matters of concernment, at his being here the power of the former slept: [m] which distinction of Legats seems to me to have had its birth after 1180. first applyed by any of our writers to [n] *Iohannes Anagninus Cardinalis* 1189. by *Hoveden*; which style yet [o] others who then lived do not give him. Of this Legat it is that [p] *Henry Chichley* in a letter, yet extant under his own hand, wrote to *Henry* the 5. that *Be inspection of Lawes*

f Eadmer. *ibid. lin.* 37.

g *Vide* Petri Blesens. *Epist.* 68.

h Eadmer. *pag.* 58, 44.

i G. Dorob. *col.* 1663, 55.

k *Vide bul.* Ioan. 22. *apud* Gulielm. Thorn, *col.* 2041, 1.

l *De Officio Legati cap.* 9. *Glass. ad verbum* Commissam.

m *Vide* Ger. Dorobern. *Ann.* 1188. *col.* 1532, 55. & 1533, 8.

n Hoveden, *Ann.* 1189. *fol.* 377. a. 10.

o Diceto *col.* 649, 42. Ger. Dorob.

p *Habetur in vita* Henrici Chichley *ab* Arthuro Duck *edita.* 1617.

and

and Chronicles was there never no Legat à latere ſent in to no lond, and ſpecially in to your rengme of Ingland, witoute great and notable cauſe. And thei whan thei came, after thei had done her legacie abiden but litul wyle, not over a yer, and ſumme a quarter or ij. monthes as the nedes requeryd: And yet over that he was tretyd with or he cam in to the lond, whon he ſchold have exerciſe of his power and how myche ſchold bee put in execution: An aventure after hee had bee reſeyved hee whold have uſed it to largely to greet oppreſſion of your peple: as indeed if he ſtayed long, he ſometimes gained the cenſure of being [q] *occultus inimicus regni*; but this was not till the Popes had brought th' Archbiſhops much under, by laying a neceſſity on them of receiving the Pall from *Rome*, and at the taking of it of making profeſſion *de fidelitate & canonica obedientia*, that is, had obliged them by Oath to defend *regalia Sancti Petri*. Of which, becauſe I find th' introducing (not much touched by our writers) a great means to advance this forraign power, it will not be amiſſe to ſay ſomewhat; and firſt of the Pall.

[q] M. Paris *Ann.* 1240. *pag.* 524. 43.

44. The *Pallium* (from whence our Engliſh word *Pall*) was a garment with which the Profeſſors of Arts, as *Grammar*, *Rhetorick*, *Muſick*, might cloath themſelves (as it ſeems to me by [r] *Tertullian* they did); yet was held moſt proper for ſuch as profeſſed Philoſophy: And therefore when a [ſ] begging fellow came to a noble *Roman palliatus & crinitus*, being asked what he was, the man half angry replyed he was a Philoſopher, *& mirari cur quærendum putaſſet quod videret*: to which the Gentleman returned, *Barbam & Pallium, Philoſophum nondum video.* From whence I gather, it was for the moſt peculiar to them. So [t] *Euſebius* ſhewes on *Heraclas*, φιλοσοφησαντα τὸ σχῆμα *taking the habit of a Philoſopher*, notwithſtanding his being a Chriſtian, retained it: and *lib.* 8. *cap.* 21. at the martyrdom of *Porphyrius* a diſciple of *Pamphilus*, he deſcribes that φιλοσοφον σχῆμα to be

[r] *De Pallio cap.* 6.

[ſ] Aul. Gellius *Noct. Attic. lib.* 9. *cap.* 2.

[t] Euſeb. *Hiſt. lib.* 6. *cap.* 13. *Græc. k.*

a short cloak or Pall covering the shoulders.

45. But it seems the primitive Christians in wearing of it did attribute some Sanctity to the garment; for [u] *grande pallii beneficium est* (saith *Tertullian*) *sub cujus recogitatu impii mores vel erubescunt*: whereupon the [x] Councell of *Gangra*, not an 100. years after, pronounced him *Anathema* used the *Pallium quasi per hoc habere se justitiam credens*, &c. Now from the danger of superstition of the one side, and the being especially worne by Philosophers of the other, I am apt to think it became in the end proper onely to some Bishops, who might challenge it as learned Philosophers, yet not at all likely to attribute more to the Robe then reasonable; and in time, either by collation of Emperors, or otherwise, appropriated to some particular Churches, who having that mark, were after the seats of Archbishops for the most part. For though [y] *Alcuinus* be of opinion the Pall is nothing but a distinction between an Archbishop and his suffraganes: yet, under favour, I conceive that must be taken of th' acception of the word in the time he lived; not as used in St. *Gregories* dayes, who gives [z] *Augustine* at the bestowing the Pall upon him the title of Archbishop no more then he doth [a] *Syagrius* Bishop of *Austun* in *Burgundy*; which Town, notwithstanding that guift by St. *Gregory*, was never reputed to have other then an Episcopall chair, and suffragan to the Archbishop of *Lions* to this day. So that certainly, at first, all that had the Pall were not *eo nomine* Archbishops, to whom it became especially proper after the Emperor relinquisht it to the Popes disposing, who at first no question had a good part in the conferring of it himself.

46. The deed is yet extant by which *Valentinian* bestowed it on the Church of *Ravenna*, about the year 430. I know [b] some, who find not how to deny it, hold this an honourable vestment, such as Emperors themselves

[u] Tertul. *de Pallio cap.* 6.

[x] *Concil. Gangrense circa Ann.* 350. *can.* 12.

[y] *Pallium nihil aliud est nisi discretio inter Archiepiscopum & ejus suffraganeos.* Alcuinus *de Divinis Officiis cap. quid significent vestimenta.*

[z] Gregor. *lib.* 12. *Epist.* 15.

[a] Greg. *lib.* 7. *Epist.* 112.

[b] Hieron. Rubeus *Hist. Ravenne. Italia Sacra, to.* 2. *col.* 331. & 332.

ſelves wore; which opinion [c] *Baronius* juſtly confutes, and rather thinks it forged: yet he, [d] citing out of [e] *Liberatus*, that *Anthemius* expell'd the Church of Conſtantinople, *Pallium quod habuit, imperatoribus reddidit, & diſceſſit*, gives no gloſſe how he could return to the Emperor his Pall and depart, if he had nothing to do with it: and it is manifeſt, in *Gregory* the greats dayes, that Church did not onely preſcribe for the uſe of the Pall, but for doing it contrary to the will and opinion of that Father. And the ſame Doctor elſewhere [f] ſaith, he had dealt *apud piiſſimos dominos*, the Emperors, to ſend him *Anaſtaſius, conceſſo uſu Pallii*: and afterward being deſired by *Brunichilda* to grant it to *Syagrius*, (of whom before) he ſhews his readineſſe, [g] *propter quod & ſereniſſimi Domini Imperatoris prona voluntas eſt, & concedi hæc omnino deſiderat*. So that certainly, at the beginning, if Princes did not beſtow it, yet it was not done againſt their wills; which after-times did in *Europe* ſolely appropriate to the Pope: who yet gave it not againſt their liking; as * *Lucius* the 2. ſending it to the Biſhop of *Wincheſter*, who yet never made uſe of it, teacheth us.

c to. 5. *Ann.* 432. n. 93.
d Baron. to. 7. *Ann.* 536. n. 17.
e *Brevit.* Liberat. *cap.* 21. to. 2. *concil.*
f *Lib.* 1. *Epiſt.* 27.
g Greg. *lib.* 6. *Epiſt.* 5. *Indict.* 1.
* Diceto *Ann.* 1142. *col.* 508.

47. But what this Pall imported, or what the receiver had of advantage by it, writers I think do not alwayes agree. [h] *Iſidorus Peluſiota*, who writ about the year 430, is of opinion, the Biſhop, as a type of *Chriſt*, wears that cloak of wool, to ſhew himſelf imitator of the great ſhepheard that will bear the ſtrayed ſheep on his ſhoulders. [i] St. *Gregory* ſayes, it ſignifies humility, juſtice, &c. I have ſhew'd before *Alcuinus* his opinion of it. But what ſoever ſignification it was at firſt thought to carry, certainly, the neceſſity of fetching it from *Rome* was not ſo urgent, as in theſe later the Papall intereſt made it eſteemed. We do not read that ever *Laurentius* or *Mellitus* received thence the Pall; yet no man doubts of their being as lawfull Archbiſhops as *Auguſtine* was. [k] *Giraldus Cambrenſis* and *Hoveden* agree, the

h *Lib.* 1. *Epiſt.* 136. *apud* Baron. to. 2. *Ann.* 216. n. 15. & to. 7. *Ann.* 553. n. 7.
i *Lib.* 7. *Epiſt.* 129. *Indic.* 2.
k *Itin. Cambr. lib.* 2. *cap.* 1. Hoved. *Ann.* 1199. *fol.* 453. b.

Bishops of St. *Davids* in *Wales* did use the Pall, till *Samson*, about the time of the *Saxons*, flying from an infection, carryed it with him; yet neither of them report him to have fetch't it from *Rome*: nor after the wanting it, did the rest of the Bishops there either refuse his consecration, deny obedience to the See, or make profession to any other, before *Henry* the first induced them by force. But to come to the *Saxons*: after *Paulinus*, there are five in the Catalogue of *York* expressely [l] said to have wanted it, (amongst which *Wilfred*, that [m] ruled all the North as his Bishoprick) yet are reputed both Archbishops and Saints; and of others in that series it will not be easy to prove they ever used it. *Albertus* the 8. Bishop about 767. had it not till the seventh year [n] *accepti Episcopatus*: nor [o] *Adilbaldus* or *Ethelbaldus* the 14. *Anno* 895. till the fourth year *postquam acceperat Episcopatum*. An undoubted argument that Canon of *Pelagius*, recorded both by [p] *Ivo* and [q] *Gratian*, that no Metropolitane should defer above three months sending for it to *Rome*, was never received in this Church. [r] *Gregory* the great sayes, it ought not to be given, *nisi fortiter postulanti*: and the same [s] Father with a Councell at *Rome* *Anno* 595. decreed, *pro pallio omnino aliquid dare prohibeo*. So that in those times the one side perhaps did not much urge the taking of it, nor the other greatly seek after a thing brought small advantage, and was so far to be fetch't.

48. But after the Court of *Rome* began to raise to it self a revenue from other Churches, this *Pallium*, that was no other then a distinctive ornament, not to be payed for, began to be set at so immense a rate, that [t] *Canutus* going to *Rome* 1031. did mediate with *John* the 19. that it might be more easy to his prelats: in which though he had a favourable answer, yet in *Hen.* the 1. his time it was so much, th' Archbishop of *York* could not pay the money, without an [u] heavy debt. [x] *Mat. Paris* doth

l Thom. Stubbs *in vit. Archiepiscop. Ebor. col.* 1697. 2.
m Bed. *lib.* 5. *cap.* 20. *Vide lib.* 4. *cap.* 12.
n Sim. Dunelm. *Epist. ad Hugonem col.* 78, 49. & T. Stubs, col. 1697, 15.
o *Ibid. col.* 79, 25. & *col.* 1698, 57.
p *Part.* 5. *cap.* 136.
q *Dist.* 100. *cap.* 1.
r *Lib.* 7. *Epist.* 5.
s *Lib.* 4. *Epist.* 44. *Ind.* 13.
t Florent. Wigorn. *pag.* 395. & Ingulph. *fol.* 508. a. 53. Malms. *f.* 41. b. 39.
u *Graviter mutuatam*, Eadmer. *pag.* 98, 30.
x Mat. Paris *pag.* 274, 4.

doth intimate as if *Walter Gray*, translated from *Worcester* to that See 1215, had not his Pall at lesse then ten thousand pounds: *accepto pallio* (saith he) *Episcopus memoratus rediit in Angliam, obligatus in curia Romana de decem millibus librarum estirlingorum*; which was about the silver of 30000^{l}. now, Coin being then after the rate of 20^{d}. the ounce. But after times, according to the Bishop [y] of *Landaffe*, reduced it to the certainty, that each Bishop payed 5000. duckets for it, every one of the value of 4^{s}. 6^{d}. our money: which yet I do not see how to make agree with the [z] *Antiquit. Brit. Ecclesiæ*, that speakes onely of 900. *aureos ducatos* payed by *Cranmer*.

y *In Catalog. Episc. in fine Archiepisc. tam Cant. quam Ebor.*

z *Antiq. Britan. Lond. pag.* 382, 32. *Hannoviæ pag.* 327, 48.

49. But to omit the gain came by the garment; that certainly was a means of drawing a great obligation from all Archbishops to the Papacy: for about 1002. a new oath *de fidelitate & canonica obedientia* was devised, to be tender'd every Archbishop at the reception of it. For the more full understanding of which, we are to know, *VVilliam* the first, after he had settled the Kingdome in quiet, wholy possest of it, would not in any [a] kind acknowledge a farther obedience to *Rome* then his predecessors had; but maintained the rights of the Kingdome in every thing, against the liking of that Court in many particulars, barring all men for taking any for Pope, but whom he designed; insomuch as after [b] *Gregory* the 7. 1084. till 1095. about 11. years, there was no Pope acknowledged in *England*; denying any to receive letters from thence, but acquainting him with them, and many more; of which elsewhere: all which being exercised by him, were never questioned during his time, nor while *Lanfrank* lived after him, (though he hath been ever reputed an holy man.) But *Anselme* succeeding in his seat, great contentions arose between him and *VVilliam* the second: The [c] King with the Nobility pressing him; as the usage of the Realme,

a *Vide* Baron. *to.* 11. *Ann.* 1071. *n.* 21, 25. *& inter* Lanfranci *Epist.* 7. *pag.* 304.

b Eadmer. *pag.* 25, 40. *Vide* Lanfranci *Epist.* 59. *pag.* 329. *col.* 1. §. *Non laudo.*

c Eadmer. *pag.* 38. *p.* 39. *per tot.*

not to depend on *Rome* as of neceſſity: he, on the other ſide, [d] declaring all ſuch cuſtomes to be contrary to Divinity, right, &c. choſe rather to live an exile all that Kings time, then any way ſubmit to thoſe cuſtomes, had been practis't, never diſputed or queſtioned by any Archbiſhop here before.

d *Ibid.* p. 40, 5. 32.

50. But, that Prince being ſoon after taken away, and *Paſchalis* the 2. ſucceeding almoſt at the ſame time, (conſidering, as it ſeems, by what weak bands forraign Biſhops were tyed to the Papacy, how eaſy it was for them to fall from it; that [e] *Gregory* the 7th. was not ſatisfied even with *Lanfranks* carriage *in Epiſcopali honore poſitus*, who reſtrained his obedience to *canonum præcepta*; that *Anſelme* alone had oppoſed the whole body of the Kingdome; that every Prelat might be neither of his temper or opinions,) framed an oath, the effect of which you may ſee in *Diceto* [f] *Ann.* 1191. & in *Mat. Paris* and others, the * full which every Archbiſhop at the reception of the Pall was to render. At the tendring this, one in *Sicily* made a ſcruple of taking it, as that *Nec ab Apoſtolis poſt Dominum, nec in conciliis inveniri poſſe ſtatutum*; the like did ſome [g] in *Polonia*: to whom the Pope anſwers, as in cap. [h] *ſignificaſti*, objurgatorily, *quaſi Romanæ Eccleſiæ legem concilia ulla præfixerint*. And going on with the deſigne, whereas at the aſſuming of this Pall by *Anſelme* 1095. it was no otherwiſe then thus, [i] *Pallium ſuper altare delatum ab Anſelmo aſſumptum eſt, atque ab omnibus pro reverentia Sancti Petri ſuppliciter deoſculatum*, &c. at the taking of it by *Raulf* 1115. his immediate ſucceſſor, we find it with this addition, [k] *Sicque delatum ſuper Altare ſalvatoris pallium eſt, & à Pontifice inde ſuſceptum*, facta

e Lanfranc. *Epiſt.* 8. *pag.* 305. *col.* 1.

f *col.* 663, 6.

* *Note*, where you read in the lives of the Abbots *p.* 140, 22. *regalem*, and in his Hiſt. *p.* 414, 22. *regalis*, both ſhould be *regalia*, for ſo we find it at the end of the Councell of Vienna, *to.* 4. *concil. gen. Romæ* 1608. & 1612. agreeing with an old Copy of that oath I have ſeen in th' Exchequer, which the Decretalls *de jure jurando cap.* 4. read thus: *Papatum Romanæ Eccleſiæ & regulas Sanctorum Patrum adjutor ero*, &c. but *Ordericus Raynaldus to.* 13. *Ann.* 1233. *n.* 65. citing out of the records in the *Vatican* the oath St. *Edmund* Archbiſhop of *Canterbury* took, reads it rightly *regalia*.

g Baron. *to.* 12. *Ann.* 1102. *n.* 6, 7, 8.

h *De electione & electi poteſtate cap.* 4.

i Eadmer. *p.* 34, 33.

k Eadmer. *p.* 113, 43.

prius

∴ prius de fidelitate & canonica obedientia profeſſione. *Deinde pro reverentia beati Petri ab omnibus deoſculatur*, &c. Which profeſſion being never met with as made by any Archbiſhop of *Cant.* before, but frequently after by ſuch as were his near ſucceſſors, as [l] *Tho. Becket*, *Baldwine*, &c. we muſt conclude him to have been the firſt from whom it hath ever been required. I know ∴ *Bellarmine* interprets a Biſhops returning out of ſchiſme 602. and voluntarily by oath promiſing to live in communion with the Pope, to be a ſwearing of obedience ∴ to that chair: but certain there is a difference between obeying and living in communion; (of which ſee *cap.* 7. *n.* 4.) between an oath inforced, and one voluntarily taken. After this, as wayes to augment the Court, many priviledges were annexed to it; [m] as that none before his receiving that ornament might *convocate councells*, *make Chriſme*, *dedicate Churches*, *ordain Clerks*, *conſecrate Biſhops*, that being [n] *Pontificalis officii plenitudo*, till he had it, none to be ſtyled an Archbiſhop; things added after mens holding a neceſſity of ſeeking ∴ it, did ſo much contribute to the Papall advantage, both in point of honour and profit. For it is manifeſt, *Lanfrank*, *Anſelme* and *Raulf* did dedicate [o] Churches, [p] conſecrate Biſhops and Abbots, were called [q] Archbiſhops, whilſt they wanted it.

51. Now the ice broken, this Oath (at firſt required onely of Archbiſhops when they took the Pall) was by [r] *Gregory* the 9, *mutatis mutandis*, impoſed on Abbots and Biſhops. About 1235. came into *England* [s] *occulta clauſa ſub bulla*, the [t] like to which had not been ſeen, was profered to *John* 23. Abbot of *St. Albans* unacquainted with it, when he could not [u] *ab illa obligatione reſilire*; who is therefore noted, that [x] *primo invitus & dolens Romanorum jugum ſubiit ſervitutis*, and that [y] *præ omnibus Romanorum oppreßionibus novis & inauditis cæ-*

l Diceto *col.* 534, 8. Ger. Dorober. *col.* 1367. 2.

∴ De *Rom. Pont. lib.* 3. *cap.* 11. §. *Juramentum.*

m De *Elect. & Elect. poteſt. cap.* 28. §. 2. *verbo* præterea.

n De *auctor. & uſu Pallii cap.* 3. *Vid. concil. Lateranenſe ſub Innocentio* 3°. *cap.* 3.

o Eadmer. *pag.* 22, 19.

p *Ibid. pag.* 6, 46. *pag.* 23, 31. *pag.* 111, 6, 18, 32.

q *Ibid. pag.* 23, 42. *p.* 111, 32. *& paſſim apud Hiſtoricos.*

r De *jurejurando cap.* 4.

ſ Mat. Paris *Vit. Abbat. pag.* 140, 31.

t Mat. Paris *Hiſt. major. pag.* 142, 1.

u *Vit. Abbat. pag.* 140, 39. x *Ibid. pag.* 141, 49. y *Ibid. pag.* 410, 39.

pit

pit molestari, &c. The thing I find of greatest exception is, the obligation injoyning them to visit *Rome*, which being in pursuance of the 26. chapter of the Councell of *Lateran*, held onely 20. years before, is censured ‡ *Dammum*, *gravamen*, *præjudicium*, *injuria*, *jactura*, as that which alter'd the nature of the Church, which had been from the foundation *libera & ingenua*, and was thus brought to serve the ends of the Court of *Rome*. Truly after this I cannot see how there can be said to have been a free Papall Councell in *Europe*, when such as it consists of (being, for the most, Bishops and Abbots) come with so high an obligation as an oath to defend the usages of Rome, under the title of *Regalia Sancti Petri*. In pursuance of which the ∴ Councell of *Trent* did expressely charge all Patriarchs, Archbishops, Bishops, and other, who in future should meet in Provinciall Synods, that *veram obedientiam summo* Romano *Pontifici spondeant, & profiteantur*. I wish it had exprest what that had been.

‡ Mat. Par. *Vit. Abbat.* pag. 139, 23. pag. 141, 52, 56.

∴ *Sess.* 25. *cap.* 2.

52. To return to that I was treating of. This visiting the *Roman* Court, however much prest on this Monastery of St. *Albans*, yet was ever excused till 1290. *John* the 3. and 25. Abbot was forced to go thither for his confirmation: but because the book is not printed, I will give you my [a] Auctors own words. Iohannes *de* Berkamsted, *vir religiosus & honestæ conversationis, Hic in crastino conceptionis beatæ & gloriosæ virginis* Mariæ, *scilicet quinto idus Decembris, anno Domini MCC. nonagesimo, per viam compromissi de gremio Ecclesiæ concorditer electus, ad curiam Romanam primus omnium abbatum hujus Ecclesiæ, pro confirmatione electionis suæ obtinenda, personaliter accessit, ibique confirmatus est à summo Pontifice* Nicholao; *& à venerabili* L. Ostiensi *Episcopo & Cardinali apud* urbem veterem *munus accepit benedictionis; & sic data maxima pecunia Papæ, & Cardinalibus, & aliis de curia, quam de mercatoribus Papæ duris*

[a] *Vita Abbat. St. Albani MS. in Iohanne* 3. *Abbat* 25.

duris conditionibus ex mutuo recepit, ab illa inſatiabili curia evaſit, expletiſque negotiis domum redire feſtinavit, &c. By which we may ſee who of this houſe went on this occaſion firſt thither, and why it was ſo earneſtly urged from thence. As for the Monaſtery of *St. Auguſtins*, by reaſon of the often contentions with th' Archbiſhop, the Monks there were much more prone to yield obedience to *Rome* (who maintained them for the moſt againſt him) then theſe other were: yet the firſt of them I find to have [b] took this oath was *Roger* the 2. elected Abbot 1253. For though the [c] benediction of *Robertus de Bello* 1224. were at *Rome*, where he gained th' Abbacy; yet there being no mention of any oath preſented to him then, we muſt think it came in afterwards. But for the fuller underſtanding how this viſiting the *Roman* Church came in, the Reader will give me leave a little to digreſſe.

[b] Wmus Thorn, *col.* 1899, 22.

[c] *Ibid. col.* 1880, 3.

53. Chriſtians in all ages have eſteemed it a point of ſingular piety and devotion, for any Ghoſtly Father or Doctor to have a care of thoſe to whom they have the relation of being a Spirituall Superior, either by planting Chriſtian Religion amongſt them, reducing them out of error, or otherwiſe ſome engagement on them. Saint *Paul* ſent for the Elders of *Epheſus* to come unto him at *Miletus*, from whom they received thoſe wholeſome inſtructions we read in the [d] Acts of the Apoſtles; and according to this example there are divers exhortations in the writings and Epiſtles of the Fathers. Before the year 517. a [e] Councell held at *Tarragona* in *Spain* did ordain, that every Biſhop, *impletis duobus menſibus, ſe Metropolitani ſui repræſentet aſpectibus, ut ab illo monitis Eccleſiaſticis inſtructus, plenius quid obſervare debeat recognoſcat: quod ſi forte hoc implere neglexerit, in Synodo increpatus à fratribus corrigatur.* Agreeing to which, [f] *Iuſtinian* in the year 541. did eſtabliſh by Law, that for the better obſervance of th' Eccleſiaſtick

[d] *Acts xx. 17, to the end.*

[e] *Cap. 5. tom. 1. Concil.*

[f] *Novel. 123. cap. 10.*

cleſiaſtick rules, every *Archbiſhop*, *Patriarch*, and *Metropolitan*, *Sanctiſſimos Epiſcopos ſub ſe conſtitutos in eadem Provincia ſemel aut ſecundo per ſingulos annos ad ſe convocare.* And Pope [g] *Zachary Ann.* 743. in a Councell at *Rome*, *Omnes Epiſcopi qui hujus Apoſtolicæ ſedis ordinationi ſubjacebunt, qui propinqui ſunt, annuè idibus menſis Maii ſanctorum Principis Apoſtolorum Petri & Pauli liminibus præſententur, omni occaſione ſepoſita,* &c. [*] After which *Charls* the Great did by law ordain, *ut unuſquiſque presbyter per ſingulos annos Epiſcopo ſuo rationem miniſterii ſui reddat, tam de fide Catholica, quam de Baptiſmo, atque de omni ordine miniſterii ſui.*

[g] Baron. to. 9. *Ann.* 743. n. 19.

[*] *Capit. Car. & c. lib.* vii. *cap.* 108, 109.

54. About which time *Boniface* an Engliſhman, the Popes Legat in *Germany*, and Archbiſhop of *Mentz*, in a Councell held in *Germany* (the decrees whereof he ſent to *Cuthert* then in the ſeat of *Canterbury*) [h] declaring how great the care of the Metropolitan ought to be of thoſe under him, ſhews how every Presbyter ſhould once a year in Lent give an account to his Biſhop, who was to inſtruct him, and with ſuch things as he could not correct himſelf, to acquaint th' Archbiſhop in a Synod; *Vt ſi Sacerdotes vel plebes à lege dei deviaſſe viderim, & corrigere non potuerim, fideliter ſemper ſedi Apoſtolicæ & vicario Sancti Petri ad emendandum indicaverim: Sic enim, ni fallor, omnes Epiſcopi debent Metropolitano, & ipſe Romano Pontifici, ſi quid de corrigendis populis apud eos impoßibile eſt, notum facere, & ſic alieni fient à ſanguine animarum perditarum.* *Cuthert*, according to this adviſe, doth appoint the proceedings of the Biſhop to be to the Archbiſhop, in the ſame words he had received it from *Boniface*; but [i] paſſeth no farther to the Pope: an undoubted argument, it was not then uſuall in *England*. I have touched before, the Conqueror did ſuffer no other correſpondency with *Rome* then what he liked; *Paſchalis* the 2. quarrell'd with *Hen.* the [k] firſt, that *Nullus inde clamor*: to prevent which, this

[h] *Concil.* Spelm. *pag.* 237, 238.

[i] *Conſer Concil.* Spelm. *p.* 238, §. ut Epiſcopi, & *p.* 251, *cap.* 25.

[k] Eadmer. *pag.* 113, 2.

this viſiting *Rome* was at the very firſt inſerted into the oath of an Archbiſhop, who being head of the Province, all the reſt might have the ſame dependance.

55. But becauſe this did not reach ſuch houſes and perſons as were exempt from the juriſdiction of th' Ordinary, acknowledging no ſuperior but the Pope; the Councell of *Lateran* under *Innocentius* 3. 1215.[l] provided, ſuch as pertained immediately to his rule ſhould preſent themſelves before him for confirmation, *ſi commode poteſt fieri*; which was here misliked. But this Councell ſpeaking not home, in that it tolerated the ſending [m] *perſonas idoneas, per quas diligens inquiſitio ſuper electionis proceſſu & electis poſit haberi*, &c. to make th' excuſe, (and being it ſelf (as I ſhall ſhew hereafter) not much regarded till *Gregory* the 9, nephew to *Innocentius*, inſerted it for the moſt into the Decretalls, and framed, as I have ſaid, an oath too, for the ſtricter obligation unto him;) it was again urged by *Alexander* the 4. [n] *ut quilibet qui in Abbatem exemptum extunc eligeretur, Romanam curiam adiret confirmandus & benedicendus*: which the ſame author ſtyles [o] *Statutum enorme* and *cruentiſſimum*. And whereas ſome, finding the burthen of running to *Rome*, had obtained as a priviledge from thence, [p] *ut non teneantur ſedem Apoſtolicam uſque ad certa tempora viſitare, contra formam præſtiti juramenti, ex quo illud evenit inconveniens, quod Apoſtolicæ ſedis dignitas varius viſitatur, in derogationem reverentiæ quæ ab omnibus debetur eidem*, &c. the ſame Pope therefore revokes all manner of ſuch conceſſions to whomſoever formerly granted. In which year, or perhaps 1258, *Simon* (elected Abbot of *St. Edmundsbury*) confirmed by *Alexander* the 4. the 22 October, is [*] noted to have been *primus exemptorum in Anglia ad curiam Romanam pro ſua confirmatione vocatus*.

l *tom. 4. Concil. gen. Rom.*

m *cap. 26. Concil. Lateran.*

n Mat. Paris *Ann. 1257. pag. 951. 41, 44.*

o *pag. 956, 7.*

p Reynald. *Annal. Eccleſ. to. 14. Ann. 1257. n. 50.*

[*] *Monaſticon Anglicanum pag. 296. col. 1.*

56. Yet the Court of *Rome*, however thus earneſt at firſt, (either perceiving it ill reliſht abroad, and that

forcing ſodain mutations in Religion not to be of ſo good conſequence) in her proſecution was more moderate. ¶ On *Roger* the xxiiii Abbot of *St. Albons* 1263. I do not find at all preſt; his ſucceſſor *John* the xxv, I have ſhew'd, was the firſt went thither for it. So likewiſe [r] *Philip* Abbot of Weſtminſter 1258. obtained the favour to ſtay at home, and *Richard Ware* his ſucceſſor fetcht his conſecration firſt thence. But after the Court was fully in poſſeſſion of what turned ſo much to her advantage, an excuſe was [ſ] hardlier admitted; and if any did obtain the favour to ſtay at home, he payed a good round ſumme for it. It is remembred, *Michael* Abbot of *St. Auguſtins*, elected 1375, did give *Papæ & Cardinalibus ut poſſit benedici in Anglia* 183[l]-02[s]-06[d]. and accordingly ſome other. The Papacy having by theſe wayes abated the power of th' Archbiſhop, found it eaſy, his lett removed, to bring the reſt of the Clergy wholy to depend upon it, by raiſing whom it liked to oppoſe that Prelat, who were bound to maintain the Papall auctority which ſupported them in what they did, and wringing the Inveſtitures (ſo far as lay in their power) out of the hands of Princes, to intereſt the Pope and his party in ſeverall particulars, under the notion of being matters Eccleſiaſticall; by which he brought the elections of Biſhops ſolely to the Convent, excluding both King and others, and became as Patron of moſt Spirituall promotions in *England*: which [t] forme he yet laboured in the end to break too, by reducing all to his own gift. For the underſtanding of which, as not impertinent to that I treat of, it will be neceſſary to look a little higher.

57. When any place became deſtitute of a Biſhop, it is certain, in the primitive Church, the Lay as well as the Clergy did concur in nominating who were to ſucceed in the charge; that he who was to have th' inſpection of all, might not be brought into it with the repug-

[q] *Vita Abbat. MS.*

[r] Mat. Paris pag. 972, 51.

[ſ] W[m] Thorn, col. 2185, & ſequent. col. 2153, 46.

[t] *Card. Oſſat. Epiſt.* 296. *Rom.* 22 *Decembr.* 1601.

repugnancy of any. And this cuſtome was ſo generall, as [u] St. Cyprian and 36. Biſhops more, meeting in Councell about the year 255. writing to certain in *Spain*, ſpake as if it did deſcend *de divina auctoritate*. It is not to be doubted but this courſe gave ſometime opportunity to ambitious and contentious ſpirits (as [x] St. *Auguſtine* calls them) of troubling the Churches peace: and therefore [y] the Councell of *Laodicea* before the year 360. did appoint the elections to Prieſthood not to be [*] by multitudes; and divers holy Biſhops deſiring peace might continue after them in their flock, were carefull or ever they dyed to know the perſon was to ſucceed in their chair. *Severus* Biſhop of [*] *Mela* in *Africa* had expreſt to the Clergy onely, whom he thought fit to have been admitted after him to his Epiſcopacy. This was likely to have bred ſome ſtir, in reſpect the people were not acquainted with it; had not [z] *St. Auguſtine* by his pains and wiſdome allayed the diſpute: to avoid which, that good man nominated one *Eradius* for his ſucceſſor, whom the people with loud acclamations approved.

u Cypr. *Epiſt.* 68. *n.* 4. *edit. Pamelii.*

x *Epiſt.* 110.

y *Cap.* 13.

* turbis. *& apud* Gratianum, *Diſt.* 63. *cap.* 6.

* *Milevit.*

z Auguſt. *Epiſt.* 110.

58. This concurrence or joyning of the Lay with the Clergy (that *qui præfuturus eſt omnibus ab omnibus eligatur*, as [a] *Leo* ſpeaks) in choice of Biſhops, I do no way queſtion to have continued in the Church till after *Charles* the Great, in whoſe Capitulars we find, [b] *Epiſcopi per electionem cleri & populi eligantur*; and to have been ſent hither by *Gregory* the Great, who in [c] his Epiſtles makes often mention of it, as we do find [d] ſteps of it in our own Hiſtorians. Yet certainly, however there might be ſome formalities of the people, the chief of elections here ever depended on the Prince; as may be gathered by that Speech of *Wolſtan* to the Confeſſors tombe, [e] that he had compell'd him to take the paſtorall ſtaffe. And *Edward* the 3. wrote to *Clement*

a Leo *Epiſt.* 89. *cap.* 5.

b *Caroli Magni Capit. lib.* 1. *cap.* 84.

c *Lib.* 2. *Epiſt.* 26. *Ind.* 10. *Epiſt.* 22, 26. *Ind.* 11. *& alibi.*

d *Vide continuat.* Flor. Wigorn. *Ann.* 1128. *p.* 506. *Ann.* 1139. *pag.* 532.

e Ailred *de miraculis Edwardi*, col. 406. 37.

the 6. [f] *Cathedrales* ---- *Ecclesias progenitores nostri dudum singulis vacationibus earundem personis idoneis jure suo regio libere conferebant, & postmodum, ad rogatum & ad instantiam dictæ sedis, sub certis modis & conditionibus concesserunt, quod electiones fierent in dictis Ecclesiis per capitula earundem*, &c. So likewise in the Parliament the 50. *Ed.* 3. the Commons shew, the King and great men were formerly in peaceable possession of giving preferments in holy Church. But I will give the words themselves, because I will not erre in the Translation. [g] *Le Roy & les grandes --- feurent en peisible possession de doner les Esveschez & les benefices de seint Esglise, come le fest le Roy St.* Edward, *qe dona l'Eveschè de* Worcestre *a seint* Wolston; *& puis par devotion des Roys fust, & par la Courte de* Rome *conferme, qe les Cathedralx Esglises averoient frank election de lour* Prelatz, *solonc la ley de Dieu & de seint Esglise, ent ordeigne perpetuelment a durer*, &c. and a little [h] after, *Les Roys d'*Engleterre *soleient doner Eveschez & autres grantz dignites trestouz, come il fait aujourdui Esglises parochiels, & le Pape ne se medlast de doner nul benefice deinz le Royalme tanqez deinz brief temps passe*, &c.

59. And this to have been likewise the custome in *France*, the complaint of the *French* Ambassador to *Innocentius* 4^tus assures us. [i] *Non est multum temporis* (saith he) *quod Reges Francorum conferebant omnes Episcopatus in camera sua*, &c. and our writers do wholy look upon the placing *Lanfrank* in *Canterbury* as [k] the Kings act, though it were not [l] without th' advise of *Alexander* the 2. Neither did [m] *Anselme* ever make scruple of refusing the Archbishoprick, because he was not chosen by the Monks of *Canterbury*: and in that letter of them to *Paschalis* the 2. 1114. though they write *Raulf in præsentia glorioſi Regis* Henrici *electus*

f *Epist. Edwardi* 3. *apud* Walsingh. *pag.* 151, 42. *Ann.* 1343.

g *Rot. Parl.* 50. *Ed.* 3. *n.* 94.

h *Ibid. n.* 111.

i *Additament.* Mat. Paris *MS. in Bibliotheca Cotton. fol.* 135, a. *cui initium* Dicturus, *&c. of which hereafter.*

k *A Willielmo Lanfrancus electus est.* Malms. *fol.* 116, b. 38. *Rex constituit Lanfrancum Archiepiscopum Cant.* Florent. Wigor *p.* 436. *Ann.* 1070. Sim. Dunelm. *col.* 202, 6.

l Eadmer. *p.* 6, 41.

m *Vide ibid. p.* 16, 48. *p.* 17, 18.

à nobis

à nobis & clero & populo; yet whosoever will note the [n] series of that election, cannot see it to have been other then the Kings act; insomuch as our [o] writers use often no other phrase then the King gave such preferments, &c. And whilst things stood thus, there was never any interposing from *Rome*, no question who was lawfully chosen: the Popes therefore did labour to draw this from the Princes medling with, as much as was possible. Some essay might be 1108. at the settling Investitures, for then *Anselme* [p] writ to *Paschalis*, *Rex ipse in personis eligendis nullatenus propria utitur voluntate, sed religiosorum se penitus committit consilio.* But this, as the practice proved afterwards, was no more but that he would take the advise of his Bishops, or other of the Clergy: for, as [q] *Diceto* well observes, our King did in such sort follow the Ecclesiastick Canons, as they had a care to conserve their own rights. The fittest way therefore for the Pope to get in was, if there should happen any dissensions amongst themselves, that he, as a moderator, a judge, or an Arbitrator, might step in.

60. About the Conquest, an opportunity was offer'd on the contentions between the two Archbishops for primacy; in which *Canterbury* stood on [r] the bulls (true or false) of former Popes, that had as a great Patriarch made honourable mention of them. When they were both 1071. [s] with *Alexander* the 2. by his advise it was referr'd to a determination in *England*; and accordingly 1072. Wm. the first with his Bishops made some settlement, which by them of *York* was ever stumbled at, pretending the King [t] out of reason of State sided with *Canterbury*. But this brake into no publick contest till 1116. *Thurstan* elected to *York*, [u] endeavored at *Rome* to divert the making any profession of subjection to *Cant.* but failing in th' attempt (that Court not liking to fall into a contest it was not probable to carry) resigned his Archbishoprick, *Spondens Regi & Archiepiscopo, se dum viveret*

n *Ibid. p.* 109, 40. &c.
o Hunt *lib.* 7. *fol.* 219, a. 1.
p *Apud* Eadmer. *pag.* 93, 42.
q *Ann.* 1175, *col.* 587, 21.
r *Vide eas apud* Malmsburiensem *fol.* 118, a. 32.
s Lanfranc. *Epist.* 3. *pag.* 301.
t Stubs *de Arch. Ebor. col.* 1706, 31.
u Eadmer. *p.* 118, 5, 15.

viveret non reclamaturum : yet after the * Clergy of *York* ſued to the Pope for his reſtitution, which produced that letter from *Paſchalis* the 2. in his behalf to *Hen.* the 1. is in *Eadmerus*; wherein he deſires, if there were any difference between the two Sees, it might be diſcuſt in his preſence. Which was not hearkned to; but *Calixtus* the 2.ʸ in a Councell by him held 1119. at *Reimes* (of which before) (the Engliſh Biſhops not arrived, the Kings Agent proteſting againſt it, the Archdeacon of *Cant.* telling the Pope that *jure* he could not do it) conſecrated him Archbiſhop of *York*: upon which *Henry* prohibits him all return into his dominions. And in the enterview ſoon after at *Giſors*, though *Calixtus* earneſtly laboured th' admitting him to his See, the King would by no means hearken to it. So the Pope left the buſineſſe as he found it, and *Thurſtan* to prove other wayes to gain th' Archbiſhoprick.

* Eadmer. *p.* 120, 50. *p.* 121, 6.

ʸ Eadmer. *pag.* 125.

61. Who thereupon became an actor in the peace about that time treated between *England* and *France*: in which his comportments were ſuch, that ᶻ *proniorem ad ſeſe recipiendum Regis animum inflexit*; ſo as upon the Popes letters he was afterwards reſtored, ᵃ *ea diſpoſitione, ut nullatenus extra provinciam Eboracenſem divinum officium celebraret, donec Eccleſiæ Cantuarienſi, &c. ſatisfaceret.* This I take to be the firſt matter of Epiſcopacy that ever the Pope (as having a power elſewhere of altering what had been here ſettled) did meddle with in *England*. It is true, whilſt they were raw in Chriſtianity, he did ſometimes recommend Paſtors to this Church; ſo ᵇ *Vitalian* did *Theodore*: and farther ſhewed himſelf ſollicitous of it, by giving his fatherly inſtructions to the *Engliſh* Biſhops to have a care of it; ſo did *Formoſus* or ſome other by his letters 904. upon which *Edward* th' elder congregated a Synod, wherein

ᶻ Sim. Dunelm. *Ann.* 1120. *col.* 242, 25.

ᵃ Eadmer. *pag.* 136, 43.

ᵇ Beda, *lib.* 4. *cap.* 1.

Note, Malmsbury *fol.* 26. a. 33. *ſays this was Ann.* 904. *but that agrees not with Formoſus his Popedome*: Baronius *therefore corrects it to.* 10. *and makes Ann.* 894. *n*, 11. *but at that time Edward was not King.*

five

five new Biſhops were conſtituted, by which an inundation of Paganiſme ready to break in on the Weſt for want of Paſtors was ſtopt. But it is apparent, this was done not as having dominion over them; for he ſo left the care of managing the matter to their diſcretion, as he did no way intereſſe himſelf in it farther then adviſe.

62. A meeting of Engliſh Biſhops 1107. at *Canterbury*, or (as *Florentius Wigornienſis* ſtiles it) a Councell reſtored the Abbot of *Ramſey* depoſed 1102. [c] *juſſu Apoſtolico*, or, as *Eadmerus*, [d] *juxta mandatum Domini Papæ*. It is manifeſt, this command from *Rome* to be of the ſame nature thoſe I mentioned of [e] *Calvins*, or at the moſt no other then the interceſſion of the Patriarch of a more noble See, to an inferior, that by his means had been converted: For his reſtitution (after the reception of the Papall letters) ſeems to have been a [f] good while defer'd; ſo that what paſt at *Rome* did not diſannull his deprivation here, till made good in *England*, as at a time when nothing thence was put in execution but by the Regall approbation; as the Pope himſelf [g] complained to the King. But after the Church of *Rome*, with th' aſſiſtance of th' *Engliſh* Clergy, had obtained all elections to be by the Chapters of the Cathedralls, upon every Scruple ſhe interpoſed herſelf.

63. The greateſt part of the Convent of *London* 1136. [h] choſe *Anſelme* Abbot of *St. Edmundsbury* for their Biſhop, contrary to the Deans opinion and ſome few of the Chanons, who appealed to *Rome*; where th' election 1138 was diſannulled, the Biſhoprick by the Pope recommended to *Wincheſter*, his then, or rather ſoon after, Legat; which ſo remained till 1141. This is the firſt example of any Biſhop choſen, received and in poſſeſſion of a Church in this Kingdome, whoſe election was after quaſh't at *Rome*, and the ſentence obeyed here; as it is likewiſe of any Commendam on Papall command in the Church of *England*:

c Flor. Wigorn. p. 479.
d Eadmer. pag 92, 14.
e *ſupra n.* 20.
f *Hoc per literas olim mandaverat.* Eadmer.
g Eadmer. pag. 113. pag. 115.
h Diceto col. 506, 507.

all which seems to have past with the Kings concurrence.

64. For to [i] deprive *VVilliam* elected somewhat after Archbishop of *York*, where he did not joyn, was not so easy: This man chosen 1142 by the greater part of the Chapter, after five years sute in the Court of *Rome*, ∴ *St. Bernard* opposing him, had in the end his election annull'd by *Eugenius* 3. in a Councell held at *Reims*; the Chanons of *York* exhorted to chuse another; some of which made choice of *Henry Murdack*, then as it seems with the Pope: who coming as Archb. shop into *England*, was not suffer'd to enter on his Archbishoprick, and excommunicating *Hugh* de *Puzat*, a person preferr'd by *VVilliam*, was himself by him excommunicated, no intermission of divine service in the City admitted; and *Henry's* means to gain his See was by drawing the Bishop of *Dureſme*, *Carliſle*, the King of *Scots*, and, by the Popes advise, this very *Hugh* by sweetnesse to his party, and in the end by the Kings Son (whom it seems he promised to get advanced to the Crown by the power of *Rome*) making his peace with *Stephen*, who soon after employed him thither on that errand. And this I take to be the second *English* election was ever here annull'd by Papall auctority.

65. Here I may observe, that at first, when ever the Pope made voyd an election, he did not take upon him to appoint another in the place vacant: but either sent to the Clergy of the same Church to chuse another, as those to whom it appertained; so did *Eugenius* 3. to *York* when this [k] *H. Murdack* was chosen, *Innocentius* 3. when [l] *Stephen Langton*; or else the Bishoprick lay vacant, as [m] *London* after *Anſelme* from 1139. to 1141. But elections being with much struggling settled wholy in the Clergy, and *Innocentius* 3. having [n] by definitive sentence excluded the *English* Bishops from having any part in that of th' Archbishop of *Canterbury*, they be-

[i] *Vide* Iohan. Hagulstad. *ab Ann.* 1142. *ad Ann.* 1152.

∴ Bernard. *Epiſt.* 106. 234, 235, 237, 238.

[k] Iohan. Hagulst. *col.* 276, 8.

[l] Mat. Paris *Ann.* 1207. *pag.* 222, 40.

[m] Dicето *col.* 507, 53. & 508, 20.

[n] Mat. Paris *Ann.* 1206, p. 214. 44.

becoming wholy appropriated to the Chapters of Cathedralls, the Pope began to creep in, and [n] *ex concessa plenitudine Ecclesiasticæ potestatis*, as he speaks, without any formality of choice, to confer not onely Bishopricks, but other Ecclesiastick promotions, within the precincts of others Dioceses, and by that means to fill the fat benefices of the Nation. The first Archbishop of *Canterbury* promoted by this absolute power of the Church of *Rome* seems to have been Richard 1229. [o] *non electo, sed dato ad Archiepiscopatum.*

[n] *Tulla Gregor. 9. apud* Mat. Paris *Ann.* 1229. *pag.* 355, 46.

[o] Mat. Paris *Pag.* 355, 44.

66. The [p] *French* Agent, in his Remonstrance to *Innocentius* 4^tus, attributes the beginning of these collations to *Innocent* the 3^d. and I have not read that either *Paschalis* the second, *Gelasius*, *Calixtus*, or *Innocent* 2. though forced to live sometimes out of *Rome*, did ever exercise auctority that way. But I will give it in his own words.

[p] *Additament.* Mat. Paris MS. *in Bibliotheca Cotton. fol.* 135. *cui initium,* Dicturus quod injunctum est mihi.

Certe non multum temporis elapsum est, ex quo Dominus Papa Alexander, *persecutionis cogente incommodo, venit in* Franciam, *confugiens ad subsidium inclytæ recordationis Regis* Ludovici *patris Regis* Philippi; *à quo benigne susceptus est, & stetit ibi diu; & forte vivunt aliqui qui viderunt eum: ipse tamen in nullo gravavit Ecclesiam* Gallicanam, *ut nec unam solam prebendam aut aliud beneficium ipse Papa dederit ibi, sed nec aliquis prædecessor suus, nec multi etiam de successoribus dederunt in sua auctoritate beneficium aliquid, usque ad tempora Domini* Innocentii 3. *qui primus assumpsit sibi jus istud in tempore suo: Revera dedit multas prebendas, & similiter post ipsum Dominus* Honorius *& Dominus* Gregorius *simili modo fecerunt; sed omnes prædecessores vestri, ut publice dicitur, non dederunt tot beneficia ut vos solus dedistis*, &c.

[q] Mat. Paris *Hist. minor. Ann.* 1252. *pag.* 287. *fol.* 143. b. *col.* 1. *MS. in Bibliotheca Regia Westmonast.*

67. In what year th' Ambassador from *France* made this complaint, is not set down: But [q] *Mat. Paris* in his

Historia minori makes mention of it as done in or about 1252.

Diebus sub eisdem, Episcopo Lincolniensi *compertum & probatum est quod iste Papa, scilicet* Innocentius *quartus, plures redditus extortos ad suam contulit voluntatem, quam omnes ejus prædecessores; prout manifestè patet in lugubri querimonia quam reposuerunt Franci coram Papa pro suis intolerabilibus oppressionibus, quæ redacta est in scriptum Epistolæ admodum prolixæ, quæ sic incipit,* Dicturus quod injunctum est mihi, *&c. quære Epistolam,* &c. By which it appears, that great liberty the Papacy took in conferring Ecclesiastick preferments within the Dioceses of others, took its rise from Pope *Innocent*, and, as it seems to me, not at the very beginning of his time; for 1199. [r] *Gelardus* Archdeacon of *St. Davids* coming from *Rome*, *quia idem* G. Menevensis *Ecclesiæ in curia Romana se dicebat electum, hoc ipsum cassavit Archiepiscopus, & alium sacravit canonice electum*; though he after bestowed on him a Church of 25. marks: and this in a case the Pope had so earnestly espoused, as he wrote to the Bishops of *Lincoln*, *Duresme* and *Ely*, *si Archiepiscopus* Cantuariæ *sæpe dictum* Gilardum *consecrare differret, ipsi Apostolica authoritate freti illam consecrare non differrent*: which yet th' Archbishop, as against the *English* liberty, did not doubt to oppose, and disannul.

[r] Roger. Hoved. *fol.* 453. b. 39. 454. b. 2. Gervas. Dorobern. col. 1682, 27. in vitâ Huber.

68. But thus it continued not long; for [s] *Honorius*, the immediate successor to *Innocentius* 3us. the wing such as served th' Apostolick see, and resided with it, were worthy *congruis beneficiis honorari*, and were therefore possest of divers both in *England* and other parts, which they did administer with so great care, *quod non minus beneficiantibus quam beneficiatis utiliter est provisum; unde, quia nonnunquam beneficiatis hujusmodi decedentibus, beneficia quæ obtinuerant, inconsultis hiis ad quos eorum donatio pertinebat, aliis successive collatis,*

[s] *In antiquo MS. Bullarum Romanorum Pontificum Archiepisc. Cant. Bulla 2. Honor. 3.*

collata, perpetuo illis ad quos pertinent videbantur amitti, propter quod etiam murmurabant plurimi, & alii se difficiliores ad conferendum talibus beneficia exhibebant: Nos volentes super hoc congruum remedium adhibere, ne cuiquam sua liberalitas sit dampnosa, per quam potius meruit gratiam & favorem, statuimus, ut clericis Ecclesiæ Romanæ, *vel aliis* Ytalicis, *qui præbendas vel Ecclesias, seu alia Ecclesiastica beneficia in* Anglia *obtinent vel obtinuerint à modo decedentibus, Præbendæ vel Ecclesiæ, seu alia beneficia nequaquam à nobis vel alio illa vice alicui conferantur, sed ad illos libere redeant ad quos illorum donatio dinoscitur pertinere, &c. Dat.* Lateran. *∴ quarto Kalend.* Martii, *Pontificatus nostri anno quinto.* ∴ 26. Feb. 1221.

69. Yet neither this, nor the renewing of it by *Gregory* the 9. with a speciall indulgence [t] directed *venerabilibus fratribus universis* Archiepiscopis & Episcopis, *ac dilectis fil. is* Abbatibus, *& aliis Ecclesiarum* Prælatis *per* Angliam *constitutis ---- ut si quando ad vos literæ Apostolicæ pro beneficiandis hujusmodi de cætero emanarunt, ad provisionem ipsorum inviti non teneamur, nisi de hac indulgentia plenam fecerint mentionem. Dat.* Lateran. ∴ 15. Kalend. Maii, *Pontificatus nostri anno 4to*, &c. could quiet the *English*, or keep them from that confederation in *Mat. Paris* 1231. beginning, [u] *Tali Episcopo & tali capitulo, Vniversitas eorum qui magis volunt mori quam à* Romanis *confundi*, &c. Which the Popes, by wisdome, and joyning the Regall auctority with their spirituall, found means to bring to nought; and pursuing the Papall interest without regarding what had past from them, gave the Kingdome occasion 1241. to [x] observe, that in onely three years *Otho* had remained Legat here, he bestowed more then 300. spirituall promotions, *ad suum vel Papæ voluntatem*; the Pope having [y] contracted (as the report went) with the *Romans*, to confer to none but their Children and Allies the rich benefices here, especially of Religious

[t] *In eodem MS. Gregor. 9. Bulla 3.*

∴ *April.* 17. *Ann.* 1230.

[u] Mat. Paris. p. 372, 18.

[x] Mat. Paris. *Ann.* 1241. p. 549, 18, 22, &c.

[y] *Idem Ann.* 1240. p. 533, 43.

houſes, (as thoſe perhaps he had moſt power over) and to that effect had writ to the Biſhops of *Canterbury* and *Salisbury*, *ut trecentis* Romanis *in primis beneficiis vacantibus providerent*. So that in the Councell at *Lions* 1245. they complain of theſe exorbitances, [z] and ſhew the revenues the *Italians* received in *England* not to be leſſe then 60 thouſand marks; of which more [a] hereafter: and in the year following 1246. reiterated their griefs to Innocentius 4^tus. [b] *quod Italicus Italico ſuccedit*. Which yet was with little ſucceſſe: for the Popes having (as we have heard) firſt ſettled all elections in the Eccleſiaſticks, and after upon ſeverall occaſions, on the ſubmitting of the *Engliſh* to his deſires, beſtowed the benefices in this and other Kingdomes on his dependents, [c] *John* the 22. (or, as [d] ſome ſeem to think, *Clement* the 5. his immediate predeceſſor) endeavored the breaking of elections by Cathedralls and Convents, reſerving the free donation of all preferments to himſelf alone.

z *Apud* Mat. Paris p. 607, 36.

a *cap.* 4. *n.* 17.

b Mat. Paris *Ann.* 1246. *pag.* 699.

c *Cardinal.* Oſſat. *Epiſt.* 296. *dat. Rom.* 1601. *Decembr.* 22.

d *Rot. Parl.* 3. R. 2. *n.* 37.

70. From whence proceeded the reiterated complaints againſt Papall Proviſions, in the Parliaments of *Edward* the 3. and *Ric.* the 2. for this Kingdome never received his attempts in that kind: to which purpoſe the Hiſtory [e] of *John Devenish* is remarkable. The Abbot of *St. Auguſtines* dying 1346. the 20. *Ed.* 3. the Convent by the Kings leave choſe *VVm. Kenington*; but *Clement* the 6. by Proviſion beſtowed the Abbacy on *John Devenish*, whom the King did not approve of, yet came thither armed with Papall auctority. The Prior and Convent upon command abſolutely denyed him entrance, *ingreſſum monaſterii in capite denegando*;

e Wm Thorn 2082, 2. & *ſequent. vide* Walſingham *Ann.* 1374. *pag.* 184, 1. Thorn, *Ann.* 1373. *col.* 2187, 57. *See the Hiſtory of* Nicholaus de Spyna *reſigning the Abby of* St. Auguſtins, *and on his nominating him*, Thomas Fyndon *preferr'd to be Abbot there by* Martin *the* 4. *who on the receipt of the Papall Bulls, acquainted* Edward *the* 1. *with what had paſſ at* Rome *himſelf being in* England, *yet by command the houſe was ſeized into the Kings hand, and he at the Parliament held at* Acton Burnell *fined in* 400. *marks*, pro eo quod ſic fuerat creatus in Abbatem, licentia Domini Regis minime petita. *Thorn, Col.* 1939, 1. & 1934.

who

who thereupon returned to *Avignon*. The buſineſſe lying two years in agitation, the King in the end, for avoyding expences and other inconveniences, [f] *ex abundanti conceſſit ut, ſi idem* Iohannes *poſſet obtinere à ſummo Pontifice quod poſſet mutare ſtylum ſuæ creationis ſive proviſionis, ſcilicet non promoveri Abbatia prædicta ratione donationis vel proviſionis Apoſtolicæ, ſed ratione electionis capituli hujus loci, illa vice annueret, & ſuis temporalibus gaudere permitteret: ſed quidem hujuſmodi cauſa coram ipſo ſummo Pontifice propoſita, concludendo dixit, ſe malle cedere Pontificio, quam ſuum decretum taliter revocare*, &c. Which ſo afflicted the poor man, as the grief killed him on *St. Iohn Baptiſts* Eve 1348. without ever entring the Abby; and the diſpute ſtill continuing, the Pope 1349. wrote to the King, [g] *Ne Rex impediret, aut impediri permitteret promotos à curia per bullas acceptare beneficia ſibi taliter incumbentia.* To which his Maty anſwer'd, *Quod* Rex *bene acceptaret proviſos clericos qui eſſent bonæ conditionis, & qui digni eſſent promoveri, & alios non.*

[f] *Vide varias lectiones ad col.* 2117. 54. *quæ vero ibi debent interſeri pertinent ad Hiſt. de qua hic agitur col.* 2082.

[g] Hen. Knighton *col.* 2601. 37. 49.

71. But the year following 1350. the 25. *Ed.* 3. the [h] Commons meeting in Parliament complain with great reſentment of theſe Papall grants, ſhewing the Court of *Rome* had reſerved to it ſelf both the collation of Abbeys, Priories, *&c.* as of late in generall all the dignities of *England*, and Prebends in Cathedrall Churches, *&c.* Upon which the ſtatute of Proviſors was in that Parliament enacted; which was the leader to thoſe other ſtatutes, 27, and 38. *Ed.* 3. [i] The 48. *Ed.* 3. 1374. the treaty between *Ed.* the 3. and *Gregory* the XI, was concluded after two years agitation, wherein it was expreſſely agreed, *quod Papa de cætero reſervationibus beneficiorum minime uteretur*, &c. Notwithſtanding which, the Commons the next Parliament preſer'd a petition, ſhewing [k] all the benefices of *England* would not ſuffice the Cardinalls then in being, the [*] Pope having by the addi-

[h] Rot. Parl. octav. Purif. 25. Ed. 3. n. 13. *See the words of the petition, cap.* 4. n. 15.

[i] Walſing. *hiſt.* 1374. *pag.* 184, 6. Rot. Parl. 1. R. 2. n. 66. Thorn, 1373. *col.* 2187, 58.

[k] Rot. Parl. 50. Ed. 3. n. 110, 115.

[*] Gregory 11.

addition of XII. new ones raiſed the number to XXX. which was uſually not above XII. in all; and therefore they deſire it may be ordained and proclaimed, that neither the Pope nor Cardinalls have any Procurator or Collector in *England*, *ſur peine de vie & de membre*, &c. Yet the inconveniences ſtill continuing, 3. *Ric.*2. produced that [k] ſtatute is in the print: I ſhall not here repeat otherwiſe, then that the Commons in the Roll, ſeem to lay the beginning of theſe exceſſes no higher then *Clement* the 5.

[k] 1. *Ric.*2. *cap.*3. 7. *Ric.* 2. *cap.*12.

72. By theſe arts, degrees and acceſſions, the Church of *Rome* grew by little and little to that immenſeneſſe of opinion and power it had in our nation; which might in ſome meaſure (whilſt it was exerciſed by connivence onely, upon the good correſpondency the Papacy held with our Kings and Church,) be tolerated, and the Kingdome at any time by good Lawes redreſſe the inconveniences it ſuſteined. But that which hath made the diſputes never to be ended, the parties not to be reconciled, is an affirmation that *Chriſt* commanding *Peter* to feed his ſheep, did with that give him ſo abſolute a power in the Church, (and derived the like to his ſucceſſors Biſhops of *Rome*,) as without his aſſent no particular Church or Kingdome could reform it ſelf: and for that he as a Biſhop cannot be denied to have as much power as others from *Chriſt*, and may therefore in ſome ſenſe be ſaid to be [l] Chriſts Vicar, to appropriate it onely to the Pope, and draw thence a concluſion that *jure divino* he might and did command in all particulars *Vice Chriſti*. And though no other Church in the Chriſtian World doth agree with the *Roman* in this interpretation; though Hiſtorians of unqueſtioned ſincerity have, as we have (in ſome meaſure) heard,

[l] Chriſti *vicarii* ſacerdotes ſunt qui vice Chriſti legatione fungunturin Eccleſia. *Euſebii Pape Epiſt.*3. *to.*1. *Concil.* Electum à Fratribus Chriſti *Vicarium* ſuſcipiant, (*ſcil. in Abbatem*:) *Hydenſium leges ab Edgaro cap.*15. *Concil.* Spelm. *pag.*440. quis locus poterit eſſe tutus, ſi rabies ſancta ſanctorum eruentat? & *Vicarios* Chriſti, alumnos Eccleſiæ dilacerat? *Epiſt.* Wi. *Senonenſis, apud Mowed, An.*1171. *fol.*299. b. 32. *de morte Thomæ Archiepiſcopi.*

in

in their own ages deliver'd when and how theſe additions crept in, and by what oppoſitions gained; that our Princes have, with th' adviſe of the Lay and Clergy, ever here moderated th' exorbitances of the Papacy in ſome particular or other, and likewiſe reformed this Church; though the ſtipulations between our Kings and *Rome* have not been perpetuall, but temporary, not abſolute, but conditionall, as is to be ſeen in that paſt between *Alexander* the 3. and *Hen.* the 2. *viz.* [m] *juravit quod ab* Alexandro *ſummo Pontifice, & ab Catholicis ejus ſucceſſoribus non recederet, quamdiu ipſum ſicut Regem Catholicum habuerint*; that the *Engliſh* Biſhops being excommunicated by the Pope [n] might not take an oath of obedience to his commands, *quia regni conſuetudines impugnabat*; though he did never exerciſe any authority here, but according to ſuch ſtipulations, contracts and agreements with our Princes, as the Lawes permitted; and therefore when he ſent hither a Legat à Latere, ∴ *he was tretyd with or he cam in to the lond, whon he ſchold have exerciſe of his power, and how myche ſchold bee put in execution: An aventure after he had bee reſeyved, he whold have uſed it to largely, to greet oppreßion of your peple*, &c. as the Archbiſhop wrote to *Hen.* 5. as I have ſhewed *numb.* 53.

m Gervas. Dorobern. col. 1422, 18. Hoved. fol. 303. a. 1. Ann. 1172.

n Iohan. Sarisbur. *Epiſt.* 279. p. 483.

∴ *Epiſt.* Hen. Chichly *in vita ejus, pag.* 79.

73. Though the Lawyers of the Kingdome do [o] conſtantly affirm, as the Law and Cuſtome of the Realm, the Kings Courts never to have carried regard to any forraign excommunication, and if any ſuch came from *Rome*, [p] not to be put in execution, but by allowance firſt had: to which effect it is remembred, the Biſhops of *London* and *Norwich* having publiſh't in their Dioceſes the Popes excommunication of *Hugh* Earl (as it ſeems) of *Cheſter*, without the privity of *Hen.* the 2. or his *Chief Iuſticiar*, the Kings writ iſſued out in this manner; [q] Londonienſis & Norwicenſis *Epiſcopi ſint in miſericordia Regis, & ſummoneantur per Vicecomites*

o *Fitz.* Excommengement, 4, 6, 10.

p *Vide* Hoveden. *fol.* 284. b. 23.

q *Ex antiquo MS.*

& Bedellos, ut sint [r] *contra Iustitias Regis, ad rectum faciendum Regi & Iustitiis ejus de eo quod, contra statuta de* Clarendone, *interdixerunt ex mandato Papæ terram comitis* Hugonis, *& excommunicationem quam Dominus Papa in ipsum fecerat per suas parochias divulgaverunt sine licentia regis.* This however contracted in *Hoveden* 1165. and in [s] *Paris* 1164. yet the difference is such as may deserve a remembrance. It seems to me, what our Kings claimed, not to be altogether unlike the [t] *Exequatur* of *Naples*, observed to this day in that Kingdome, notwithstanding all contests from *Rome*.

[r] *Coram.* Hoveden.

[s] *pag.* 103, 43.

[t] Girolamo *Catena vita di Pio* 5to. *pag.* 96, 97. 98, 100. *in* 8vo. *Romæ* 1587. & Adriani *Hist. lib.* 19. *pag.* 1378. A.

74. Neither did the Crown ever relinquish this right, not at the peace after *Beckets* death, when [u] *Henry* the 2. assented to quit no other then *Consuetudines quæ introductæ sunt tempore suo*; which it is manifest this was not, as appears by [x] *Eadmerus*. It is farther observable, that by the common Laws (that is [y] the common Custome of this Realm) the [*] sentence of the Archbishop is valid in *England*, and to be allowed in the Kings Courts, though controuled by the Pope: and to shew our Princes had no regard to any thing of this nature from thence, other then such a complying with a reverend Prelat as I have formerly mentioned did admit, it may not here be unfitly inserted what [z] *Froissard* writes of *Edward* the third, with whom the *Flemings* joyned against the *French*; upon which, (but I shall deliver it in his own words) *Adonc le Roy de France s' en complaignit au Pape* [*] Clement *sixieme, qui getta une sentence d' excommuniement si horible, qu' il n' estoit nul prestre qui asast celebrer le divin service*: *De quoy les* Flamens *envoyerent grande complainte au Roy d'*Engleterre; *lequel pour les appaiser, leur manda, que la primiere fois qu' il rappasseroit la mer, il leur ammeneroit des Prestres de son pais qui leur chanteroient la Messe, vousist le Pape ou non car il estoit bien privilegié de ce faire: & par ce moyen s' appaiserent les* Flamens, *&c.* As for the priviledge here-

[u] Ger. Dorobern. *col.* 1422, 50.

[x] *pag.* 6.

[y] 2. *H.* 4. *Action sur le case.* 25. Fitz. [*] 31. *Ed.* 3. *Excommengement.* 6.

[z] Froissard. *to.* 1. *cap.* 47. *pag.* 58. *Gall.*

[*] *Benedictus* xii. Iacobus Meierus *Annal. Flandr. Ann.* 1340. *fol.* 141, a.

spoken

ſpoken of, that can be no other then the obligation all Kings owe unto God, for ſeeing his word ſincerely taught them live under their protection, without the diſturbance of any.

75. In which kind ours have been ſo far from yielding obedience to the Papall attempts, as *Edward* the firſt could not be induced to ſpare the life of one brought a [a] Bull from the Pope, might have made ſome diſturbance, but by his abjuring the Realm; as his grandchild *Edward* the 3. did [b] cauſe ſome to ſuffer for the ſame offence. And on occaſions our Kings have prohibited all entercourſe with *Rome*; [c] denied their Biſhops going thither ſo much as for confirmation, but the Metropolitans, if need were, ſhould by the Kings writ be charged to confirm them; [d] commanded their ſubjects not to rely on any ſhould come from thence, affirming, *quod in regnum noſtrum nec propter negotium noſtrum nec veſtrum ullatenus intrabit ad terram noſtram deſtruendam.* Yet notwithſtanding ſo notorious a truth, back't with ſo many circumſtances, grounded upon unqueſtioned monuments of antiquity, hath not been received; but the bare affirmation, *Chriſt* by *paſce oves meas* intended *Peter*, and by conſequence the Pope, to be the generall Paſtor of the world, and the meaning of thoſe words to be, that he ſhould [e] *regio more imperare*, hath ſo far prevailed with ſome, as to eſteem the ſtanding for the rights of the Kingdome, the Laws and Cuſtomes of the Nation, to be a departing from the Church Catholick; and to eſteem no leſſe then Hereticks thoſe, who defending that which is their own from th' invaſion of another, will not ſuffer themſelves to be led hood-winkt, to think the preſervation of their proper liberty is a leaving *Chriſt*, his Church, or the Catholick faith.

a *Aſſiſe lib.* 30. *placit.* 19.

b Walſingham *Hiſt. Ann.* 1358. *pag.* 165, 48.

c *Vide* Hoved. *fol* 284. b. 13. *Rot. Parl.* 16. *March*, 3. *H.* 5. *n.* 11. *See the* 9. *H.* 4. *n.* 37.

d Gervas. Dorobern. *col.* 1552, 51.

e Bellarm. *Recognit. pag.* 21. *Edit. Ingolſtat.* 1608.

76. I dare boldly ſay, whoever will without partiality look back, ſhall find the reverence yielded from this

Church to *Rome* for more then a thouſand years after *Chriſt*, to have been no other then the reſpect of love, not of duty, and Popes rather to *conſulere* then *imperare*; their dictats to have been of the ſame nature [f] the German Princes were of old, *auctoritate ſuadendi magis quam jubendi poteſtate*; never requiring a neceſſity of obedience *eo nomine* that they came from *Rome*, but for that they were juſt and reaſonable: neither did the Pope ſend any Agent hither to ſee them put in execution; but th' Archbiſhop, according to the exigent of times, receiving his wholeſome adviſes, cauſed ſuch as he held of them did conduce to the good of the *Engliſh* Church to be obſerved. So *Theodore* [g] received thoſe of Pope *Martin*, but [h] did not them concerning *Wilfred*, from *Agatho*. When *Alexander* the 2. had exempted the [i] Abbot of *St. Edmunds-bury* from the juriſdiction of the Biſhop of *Norwich*, *Lanfrank* took the Act from the Abbot: and *Gregory* the 7. is ſo far from uſing commands in the cauſe, as he onely earneſtly intreats the Archbiſhop he would ſtop the Biſhop of *Norwich* from moleſting the ſaid Abbot; yet himſelf as it ſeems did not reſtore the Bull of immunity to him during that Popes life. (but of this before.) In the year 1070. on the Kings deſire in a Councell at *Windſor*, [k] *Agelricus* Biſhop of the *South-Saxons* is degraded, and his Biſhoprick confer'd on *Stigandus*: *Alexander* the 2. not approving what had paſt, [l] writes to the King, this cauſe ſeemed to him *non ad plenum tractata, ideoque ſicut in canonibus cautum eſt, in priſtinum locum debere reſtitui judicavimus; Deinde, cauſam ejus, juxta cenſuram canonicæ traditionis diligenter retractandam & definiendam, prædicto fratri noſtro Archiepiſcopo Lanfranco commiſimus.* It is certain (however ſome writers might upon this or for other cauſes think his degradation to have been *non canonice*) thoſe times did not interpret this (though writ with ſo great earneſtneſſe) for other then adviſe or interceſſion,

f Tacit. *de moribus Germanorum. Vide* Lanfranci *Epiſt.* 8. *p.* 305.

g Beda *lib.* 4. *cap.* 17.

h Malmsbur. *fol.* 150, *&c.*

i *Vide* Eadmer. *pag.* 62, 36. Lanfranci *Epiſt.* 20. *pag.* 311.

k Florent. Wigorn. *Ann.* 1070. *pag.* 435. & 436. Sim. Dunelm. *col.* 292.

l Baron. *to.* 11. *Anno* 1071. *n.* 11.

terceſſion, not as of a perſon had an abſolute power of commanding in the buſineſſe; for we never read of any proceedings upon it, not *Lanfrank* at all ever to meddle in the caſe, that he ever eſteemed [m] *Stigand* a lawfull Biſhop *Epiſt.*27, 28. who in the year 1075. [n] being in a Councell at *London*, according to the Decrees of it, removed his Epiſcopall Chair from *Selſey* to *Chicheſter*, of which he [o] died Biſhop 1087. without being at all, for what appears, queſtioned or diſturbed after the firſt grant of it. Divers examples of the like nature occur too long to be repeated, where the King or [p] his chief Iuſtice prohibit the Papall precepts from being put in execution: and it is agreed by Lawyers, that not the command, but the conſtant obedience, is it which denotes a right of commanding; and in caſes of this nature *prohibentis potior eſt condito*, one example in the negative, when the thing is ſtood upon, being of more weight then twenty by compliance in the affirmative.

[m] Lanfranci *Epiſt.*27, 28. *& apud* Eadmer. *pag.*13.
[n] Malms. *de pontif. lib.*1. *fol.*121. b.27. *Vita* Lanfranci *cap.*12. *pag.* 13. *C. col.*1.
[o] Florent. Wigorn. *Ann.*1087. *pag.*449.
[p] *Vide* Gervas. Dorobern. *Ann.* 1087. *col.* 1503,38.

77. It is probable, neither the King nor the Biſhops would introduce any new matter of great concernment into this Church, without the privity of ſo great a Doctor, Patriarch of a See, from which their anceſtors had received the firſt principles of *Chriſtian* Religion; but it is manifeſt, what paſt, (if he were acquainted with it) was by their own auctority, not his. When *Offa* intended the erecting of *Litchfield* into an Archbiſhoprick, he did it by a Councell at *Calcuith*: *Lambertus* (as what he approved not) producing [q] *crebra ſedis Apoſtolicæ & vetera & nova edicta* againſt it, yet the thing proceeded. *Lucius* the 2 ∴ went ſo far in his intentions to raiſe *Wincheſter* to an Archiepiſcopall Chair, as he ſent the pall to the Biſhop: yet it being not approved here (as the event ſhews) that Town never yet had the honour. *Henry* the firſt having in his [r] Lawes appointed how a *Biſhop*, *Presbyter*, *Monk*, *Deacon*, &c. ſhould ſuffer, committing homicide, concludes, *Si quis ordinatum occi-*

[q] Malms. *de regibus lib.*1. *fol.*15. b.34. ∴ Diceto *Ann.* 1142. Mat. Weſt.
[r] *Leg. Hen.*1. *cap.*73. *pag.* 204, 29.

dat, vel proximum ſuum, exeat de patria ſua, & Romam adeat, & Papam, & conſilium ejus faciat; de adulterio, vel fornicatione, vel * Nunnæ *concubitu ſimiliter pœniteat.* Where it is obſervable, the King ordains the Penance, permits the delinquents peregrination to *Rome*, to receive from the Pope (as from a great Doctor of the Church) ſpirituall counſell, which elſe he was not admitted to ſeek; for [t] *peregrina judicia modis omnibus ſubmovemus*; and again, [u] *ibi ſemper cauſa agatur, ubi crimen admittitur.*

* *Legendum* Nunnæ *cum MS. Loudon.* Seld. *& noſtro, non* nimio, *ut MS. Schachar.*

t *Leg. Hen.* 1. *cap.* 31. *p.* 187. 29.

u *Ibid. cap.* 5. *pag.* 178, 28.

78. *William* the firſt (who began his expedition againſt *Harald* by the counſell of *Alexander* the 2. and received a [x] banner from him) minding the depoſition of th' Archbiſhop of *Canterbury*, procured the Pope to ſend certain Eccleſiaſticks hither to joyn in the action, as likewiſe ſoon after for determining the queſtion of precedency between *Canterbury* and *York*; upon which there grew an opinion, [y] *Archiepiſcopum Cantuarienſem à nullo hominum, niſi à ſolo Papa, judicari poſſe vel damnari, nec ab aliquo cogi pro quavis calumnia cuiquam, eo excepto, contra ſuum velle reſpondere.* This no doubt was promoted by th' Archbiſhops, as what exempted them from all home juriſdiction, the Biſhops in generall did after think in ſome ſort to introduce; and thereupon put in this petition in Parliament [z] 18. *Ed.* 3. *qe pleiſe a Roy, en maintenance del eſtat de ſeint Egliſe, graunter & ordeiner en ceſt Parlement, qe nul Erceveſque ou Eveſque ſoit deſormez, arreynez, ne empeſchez devaunt ſes Iuſtices, en cauſe criminele, par quecunque voye, de ſi come ſur tiele cauſe nulle alme ne les poet juger, ſi noun le Pape ſeulement.* But to this the anſwer is no other then, *Il eſt avis, qe en cauſe de crime, nul Erceveſque ou Eveſque ſoit empeſche devant les Iuſtices, ſi le Roy ne le commande eſpecialment tant qe autre remedie ſoit ordeinez*: which he did likewiſe confirm by Charter there regiſtred, and as [a] *Walſingham* hath truly recorded.

x Ingulph. *fol.* 522. *a.* 6.

y Eadmer. *pag.* 29, 23.

z Rot. Parl. 18. *Ed.* 3. *n.* 23. 24. *pet.* 1. *du Clergie.*

a Walſing. *Hiſt. Ann.* 1344. *p.* 155, 1.

79. This

79. This opinion, though [b] new to the Engliſh, queſtionleſſe incouraged *Anſelme* to oppoſe the King in many particulars, and Popes to go farther; as to claim Princes ſhould not confer Inveſtitures, nor define matters of Epiſcopacy, &c. then to beſtow preferments within this Kingdome, at firſt by conſent, and with the limitation no *Italian* to ſucceed another, then to reſerve to themſelves the collation of all benefices; of which before. To conclude this; whoſoever will without prejudice weigh the reformation of *England* by *Hen.* the 8. *Edward* the 6. and more eſpecially Queen *Elizabeth* in the point of ſupremacy, muſt grant theſe Princes did not aſſume to themſelves any thing, but ſuch particulars as the Court of *Rome* had in a long ſeries of time incroached in on the Crown and *Engliſh* Church. If at any time our aunceſtors ſtyled the Pope *Princeps Epiſcoporum*, it was in no other ſenſe then they did *St. Peter Princeps Apoſtolorum*; by which what principality they intended him, we cannot better underſtand then by the Saxon, who renders it [c] **Ealdop ðapa Apoſtola**, the Elder of the Apoſtles. If they called him *ſucceſſor* or *Vicarius Petri*, they were not alone appropriated to him, for [d] *Petrus Bleſenſis* and others give the Biſhop of *York* the ſame titles; and the Biſh. of *Bath*, who had a Church dedicated to *St. Peter*, he bids remember *quia Petri Vicarius eſtis*. So did they likewiſe in ſome ſenſe call Kings [e] Chriſts Vicars, as well as Biſhops. If at any time they gave the Pope the title of *ſ* head of the Church, it was, as being the firſt Biſhop, he was held to be, as *St. Bernard* tells us, *& in beneficam cauſam*; as they [h] termed *Oxford the fountain and mother of our Chriſtian faith*. I cannot therefore but wiſh a * late wri-

[b] *Protinus intellexerunt quod prius non animadverterunt.* Eadmer. *p.* 29, 21.

[c] Beda *Latin-Saxon edit.* 1644. *lib.* 2. *cap* 6 *p.* 123. *lib.* 4. *cap.* 18. *p.* 302. & *alibi.*

[d] *Epiſt.* 113, 148. *Vide* Stubs *de Archiepiſc. Ebor. in Aldredo col.* 1703, 37. 1704, 13. *vide ſupr. c.* 2. *n* 72.

[e] *Leg. Edwardi Confeſſoris cap.* 17. Seldeni *Note ad* Eadmer. *p.* 155, 12, *&c.* [f] *Rot. Parl. at Glocest. n.* 73. *in nonnullis libris impreſſis cap.* 6, & 7. [g] Bernard. *de conſiderations lib.* 3. *cap.* 3. [h] *Rot. Parl.* 1. *Hen.* 6. *n.* 43.

* Philip Scot *his treatiſe of Schiſme, p.* 165.

ters

ter, that sayes *England had a known subjection to* Rome *acknowledged even by our Laws, ever from the conversion of our Country under St. Gregory*, had expressed in what particulars that subjection did consist, what those Laws are, and where to be found. The truth is, as there is no doubt our Aunce stors in former times would not have joyned with the Synod of *Gap*, in causing so ∴ disputable ambiguous a question as that the Pope is *Antichrist* to have been taught as the faith of the *English* Church; so there is no question, but it hath been ever the *Tenet* of it, *Pontificem Romanum majorem aliquam jurisdictionem non habere sibi à Deo collatam in Sacrâ Scripturâ in hoc regno* Angliæ, *quam alium quemvis externum Episcopum*: which our ∴ Historians do mention as what proceeded from the constitutions of the Church and assent of Emperors, not as of a thing in it self *juris divini*: insomuch as,

∴ I will not undertake to maintain that the Pope is Antichrist, professing my weakness & ignorance of those propheticall Scriptures to be so great, that I dare not be confident in my interpretations of them. *Paxter his Christian concords Explication. p. 69.*

∴ Diceto, *Ann. 607. & 608. col. 437, 23.*

80. That proposition, [i] when it was propounded 1534. in *Henry* the 8ths time in convocation, all the Bishops without exception, (and of others onely one doubted, and four placed all Ecclesiastick power in the Pope,) both the Universities, and most of the Monasteries and Collegiat Churches of *England*, approved & avowed as the undoubted opinion of the Church of this Nation in all ages. Neither can I see how it can be otherwise: for if the Church of *Canterbury* [k] were *omnium nostrum mater communis sub sponsi sui Iesu Christi dispositione*, if it were *Mater omnium* Anglicanarum *Ecclesiarum, & suo post Deum proprio lætatur pastore*; that is, if th' Archbishop had no mediate spirituall superior but *Christ* & *God*; if the power the Pope exercised over him within this Realm were [l] *voluntate & beneficio*, gained, as I have shewed, by little & little, voluntarily submitted unto; it could be no other then *jure humano*: and then it must be granted, the Church of *England* could not hold any necessity of being in subjection to the See or Church

i *Antiquit. Britan. Eccles. pag. 384, 37. edit. London. 1573.*

k Ger. Dorobern. *col. 1663, 24. col. 1615, 60, 63.*

l *Epist.* Radulph. *Archiepisc. Calixto 2. col. 1736. 1.*

Church of *Rome jure divino*; as it is manifeſt they did not, in that they [m] ſometimes acknowleded no Pope, [n] otherwhiles ſhewed an intent of departing from his union, and the Biſhops as well as Lay Lords adviſed *Anſelm*, [o] *Vrbani obedientiam abijcere, ſubjectionis jugum excutere*, &c. Neither could the Church of *England* be any way poſſible guilty of Schiſm, adhering to their Ghoſtly Superior next and immediate under *Chriſt Ieſus*.

As for the temporall profits the Court of *Rome* received hence, though the denying them can be no juſt cauſe of ſuch a ſpirituall imputation, eſpecially on privat men; yet certainly who will examin their beginning, as he ſhall find it to have been by the bounty or permiſſion of our Princes, ſo upon ſearch he will perceive the Kingdome went no farther then the Common Law, the precedent of former times, and ſuch an exigency did force them to: of which therefore I ſhall adde a word or two.

[m] Eadmer. pag. 25, 40.
[n] Mat. Paris, *Ann.* 1163. pag. 107, 45. pag. 111, 24. *Vide Epiſt. Gilberti Londonenſis Epiſc. apud* Hoveden. *fol.* 288, 34. 38. *Ann.* 1166.
[o] Eadmer. p. 28, 23.

Chap. IV.

Of the Payments to the Papacy from England.

1. THe vaſt ſummes the Court of *Rome* did of late years upon ſeverall occaſions export out of this Kingdome, mentioned in the [a] ſtatute of the 25. *Hen.* the 8. are ſpoken of by ſeverall of our writers: and though ſome [b] have in generall expreſſed how much the Nation ſuffer'd in that kind; yet none, that I know, in one tract did ever ſhew by what degrees the Papacy gained ſo great a revenue, as the Commons in *Edward* the thirds dayes had cauſe to complain, it did turn [c] *a plus grand deſtruction du Royaume qe toute la guerre noſtre Seigneur le Roy.* I have thought therefore that it will not be amiſſe to ſet down, how the Pope came to have ſo great an influence over the treaſure of the Clergy in this Land, by ſeeking out how and when the greateſt of the paiments made to him began, what interruptions or oppoſitions were met with, either at the beginning or in the continuance of them.

a 25. *Hen.* 8. *cap.* 21.
b *Apud* Mat. Paris *Epiſt. univerſitat. Angliæ, Anno* 1245. *p.* 667. 38.
c Rot. Parl. octav. Purific. 25. Ed. 3. *n.* 13. *of which hereafter n.* 15.

2. The firſt payment, that I have read of, which gave the Pope an entrance as it were in to it, was that bounty of our Princes known to this day by the name of *Peter-Pence:* and this as it was given for an [d] Almes by our Kings, ſo was it no otherwiſe received by the Court of Rome; [e] *Eleemoſyna beati* Petri, *prout audivimus, ita perperam doloſeque collecta eſt, ut neque mediam ejus partem hactenus Eccleſia Romana ſuſceperit,* ſaith *Paſchalis* the 2. So that no queſtion [f] *Polidore Virgil* very inconſiderately termes it *vectigal*, and others, who by that gift contend the Kingdome became [g] *tributarium feudatarium Sto.* Petro *ejuſque ſucceſſoribus*: for though the word *tributum* may perhaps be met with in elder [h] writers,

d *Vide Epiſt.* Wmi. 1. *apud* Baron. *to.* 11. *Ann.* 1079. *& inter* Lanfranci *Epiſt.* 7.
e *Epiſt. Henrico* 1. *apud* Eadmer. *pag.* 113, 27.
f *Hiſt. lib.* 4. *p.* 89, 40, 43.
g *Note in* Lanfranci *Epiſt.* 7. *p.* 347. *col.* 2. *d.*
h Malmsbur. *fol.* 128. *b.* 25.

ters, yet never did any understand the Pope by it to become a Superior Lord of the Lay fee, but used the word metaphorically; as we do to this day terme a constant rent a kind of *tribute*, and to those who pay it, and over whom we have in some sort a command, we give the title of subjects; not as being Princes over them, but in that particular being under us, they are for it styled our inferiors.

3. What *Saxon* King first conferred them, whether *Ina*, as [i] *Ranulphus Cestrensis* sayes report carryed, or *Offa*, as [k] *Iorvalensis*, I will not here enquire, as not greatly materiall. [l] *Polidore Virgil* tells, some write *Ethelwolphus* continued it: with whom *Brompton* seems to concur. It is true, our Historians remember he caused [m] 300. *mancusas denariorum* ([n] *Malmsbury* renders it *trecentas auri marcas* (which was ten times the value of silver) as [o] another *trecenta talenta*) to be carried every year from hence to *Rome*; which could be no other then the just application of *Peter-Pence*: for amongst sundry complaints long after from [p] *Rome*, we find the omission of no paiment instanced in, but of that duty onely; neither do the body of the Kingdome in their [q] Remonstrance to *Innocentius* 4. 1246. mention any other as due from hence to *Rome*.

4. This therefore thus confer'd by our Kings, was for the generality continued to the Papacy; yet (to shew, as it were, that it proceeded only from the liberality of our Princes,) not without some stops. Of those in the times of *VVilliam* the first & *Henry* his Son I have [r] spoke. *Henry* the 2. during the dispute with *Becket* and *Alexander* the 3. commanded the Sheriffs through *England*, that *[s] Denarii beati Petri colligantur, & serventur, quousque inde Dominus Rex voluntatem suam præceperit.* During the Reign of *Edward* the 3. the Popes abiding at *Avignon*, many of them *French*, their partiality to that side, and the many Victories obtained by th' English be-

i *Polychronic. lib. 5. cap. 24. See* Brompton *col.* 802, 23.
k *Col.* 776, 37.
l *Lib. 4. p.* 89, 44.
m Florent. Wigorn. *Ann.* 855. *pag.* 300. & Sim. Dunelm.
n *De Regibus lib* 2. *cap.* 2. *fol.* 22. a. 27.
o Iorvalensis *col.* 802, 27.
p *This appeares by the Epistle of* William *the* 1. *to* Paschalis *the* 2. *before cited, and so to Henry the* 1.
q *Apud* Mat. Paris *p.* 698, 51.
r *Cap.* 3. *n.* 11. *cap.* 4. *n.* 2.
s *Apud* Mat. Paris *Anno* 1164. *p.* 103, 45. & Hoveden *Anno* 1165, *fo.* 284. b. 26.

gat the proverb, [u] *Ore eſt le Pape devenu Françeis, & Ieſu devenu Angleis*, &c. about which time our Hiſtorians obſerve, the King gave command [x] no *Peter-Pence* ſhould be gather'd or pay'd to *Rome*. And this reſtraint, it ſeems, continued all that Princes time; for *Richard* the 2. his ſucceſſor at his beginning cauſed *John Wickliffe*, eſteemed the moſt [y] knowing man of thoſe times, to conſider the right of ſtopping them; whoſe determination in that particular yet remains, entituled [z] *Reſponſio Magiſtri* Iohannis Wicliff *ad dubium infraſcriptum, quæſitum ab eo per Dominum Regem* Angliæ Richardum *ſecundum & magnum Concilium, anno regni ſui primo*: then the queſtion followes, *Dubium eſt, utrum regnum* Angliæ *poßit legitime, imminente neceßitate ſuæ defenſionis, theſaurum Regni detinere, ne deferatur ad exteros, etiam Domino Papa ſub pœna cenſurarum & virtute obedientiæ hoc petente; & relicto viris peritis quid dici debet in iſta materia, ſecundum jus canonicum, ſecundum jus* Angliæ *vel civile ſolum reſtat ſuadere partem affirmativam dubii, ſecundum principia legis* Chriſti: then ſhews, thoſe paiments being no other then Almes, the Kingdome was not obliged to continue them longer then ſtood with its own convenience, and not to its detriment or ruine; agreeing therein with that of Divines, *extra caſus neceßitatis & ſuperfluitatis Eleemoſyna non eſt in præcepto.*

[u] Hen. Knighton *col.* 2615, 41.
[x] Caxton. *Continuat. Polychronic. cap.* 2. Stow *Ann.* 1365.
[y] Hen. Knighton *col.* 2664, 66. & 2644, 31.
[z] *In faſciculo zizaniorum MS. in Bibliotheca Antiſtitis Armachani, fol.* 59, *b. col.* 2.

5. But in the Parliament held the ſame year, the queſtion was concluded: for there this petition being prefer'd, [a] *que y puiſſe eſtre declaree en ceſt preſent Parlement*, ſi la charge *de la* denir Seint Pierre, *appelle* Rome peny, *ſera leve des dites Comes, & paye al Collector noſtre Seint Pere le Pape ou noun*; the anſwer was, *ſoit fait come devant ad eſte uſee*: By which the uſe of them being again returned, did ſo remain till *Henry* the 8ths. time. For though in a [b] councell held at *London* 1408, it was treated *de cenſu & obedientia Papæ ſubtrahendis vel non ſubtrahendis;*

[a] Rot. *Parl.* 1 *Ric.* 2. *n.* 84.
[b] Walſing. *Hiſt. Anno* 1408, *p.* 420, 2.

hendis; yet that it paſt farther then words I have not obſerved. But King [c] *Henry* 153¾ took them ſo abſolutely away, as though Queen *Mary* repealed that Act, and *Paulus Quartus* dealt earneſtly with her [d] Agents in *Rome* for reſtoring the uſe of them; yet I cannot find they were ever gather'd, and ſent thither during her time: but where ſome Monaſteries did anſwer them to the Pope, and did therefore collect the taxe, that in proceſſe of time became as by cuſtome pay'd to that houſe; which being after derived to the Crown, and from thence by grant to others, with as ample profits as the Religious perſons did poſſeſſe them, I conceive they are to this day pay'd as an appendant to the ſaid Manors, by the name of *Smoak-mony*.

c 25. *Hen.* 8. *cap.* 21.

d *Hiſt. Concil. Trident. lib.* 5.

6. Before I paſſe from this, one thing is not to be omitted: that however the Pope had this as a due, and for that end his Collector did abide in *England*; yet he might not raiſe the auncient accuſtomed proportion of the *Taxe*, nor in any kind alter the manner of taking it: for when *Rigandus* from the Pope endeavored that, he was ſtreightly prohibited by *Edward* the 2. The [e] Act it ſelf is printed.

e Fox *Acts Monuments in Edw.* 2.

As for the value theſe *Peter-Pence* did amount to, I have ſeen in an old *MS.* belonging to the Church of *Chicheſter*, a Bull ſaid to be of [f] *Gregory* 5ths. that did proportion them after this manner.

f *Vide Concil.* Spelm. *p.* 313.

Epiſcop.	l.	s.	d.	Epiſcop.	l.	s.	d.
Cant. — —	07	18	00	*Exonienſis* — —	09	05	00
London. — —	10	10	00	*Wigornienſis* —	10	05	00
Roffenſis — —	05	10	00	*Herefordenſ.* —	06	00	00
Norwicenſis —	21	00	00	*Bathon.* — —	12	00	00
Elienſis — —	05	00	00	*Sarisbur.* — —	17	00	00
Lincolnienſis —	42	00	00	*Coventrenſis* —	10	00	00
Ciceſtrenſis —	08	00	00	*Eborac.* — —	11	10	00
Winton. — —	17	06	08				

Dat. apud *Vrbem Veterem* x. Kalend. *Maii*, Pontificatus noſtri anno ſecundo.

But this could not be the Bull of *Gregory* the 5. who dyed about 997. before [g] *Ely* was erected, or Episcopall chaires placed in [h] *Lincoln* or *Norwich*.

7. The last article in the oath prescribed the Clergy from the Pope, of obedience to him, was, not any way to alienate the possessions of their houses *inconsulto Romano Pontifice*. Whether this clause were inserted when 1115, it was first required of [i] *Raulf* th' Archbishop of *Cant*. I have not been able to certify my self; and am apt to believe it was not: for though we find it in [k] *Math. Paris*, when it was first imposed on Abbots and Bishops, yet that was after the Court of *Rome* had tasted the sweetnesse of taxing other Churches; neither is it in any of those conditions mentioned by [l] *Diceto*. But when ever it came in, it implying a right of alienating the possessions of Religious houses and Churches, with the Papall licence, bred an opinion, that without his assent there could be no good sale made of their estates, by any temporall or spirituall power whatsoever, though with their own concurrence: and the Court of *Rome* grew to maintain, [m] That being a Mother, she ought to be relieved by her Children. [n] *Gelasius* the second in his distresse 1118, is said to have desired *à* Normannica *Ecclesia subsidium orationum, & magis pecuniarum*: yet certainly the *Norman* Church did not then at all condescend to any; for the *French* Agent in the [o] *Lugubri querimonia* (of which before) mentions him amongst divers others who, expell'd *Italy*, fled into *France* for succour, yet, *non in aliquo gravaverunt Ecclesiam* Gallicanam, *nec dando beneficia, nec petendo subsidium pecuniæ vel armorum, sed spiritualibus armis, scilicet lacrymis & orationibus, quæ sunt arma ministrorum* Christi, *maluerunt esse contenti*, &c. So that certainly if any collection were made for *Gelasius*, it was so private, publick notice was not taken of it.

8. The first extraordinary contribution raised by allowance

g Florent. Wigorn. *Ann.* 1109. *p.* 482. *& alii.*
h Remigius *circum Ann.* 1080. *transtulit sedem Episcopalem de Dorkecestra Lincoln.* & Herebertus *circa* 1086. *de Thetfordia, Norwitch.* Malmsbur. *de Pont.*
i *cap.* 3. *n.* 50.
k *Vitæ Abbat. p.* 140, 27. *Hist. major. pag.* 414, 26.
l *Ann.* 1191. *col.* 663. 6.
m Mat. Paris *Ann.* 1226. *pag.* 328, 13.
n Ordericus Vitalis *pag.* 846. c.
o Mat. Paris *Additament. MS. ubi supra, cap.* 3. *n.* 66.

allowance for the Popes uſe in this Kingdome, I take not to have been before 1183. when *Lucius* 3us. at odds with the Citizens of *Rome*, not any ways able to reſiſt their fury, ſent to *Henry* the 2. *poſtulans ab eo & à clericatu* Angliæ *auxilium*. The thing was taken into conſideration, and for the precedent, it was not thought fit any thing ſhould be given as from the Clergy, but that they might raiſe a ſupply amongſt themſelves for the King, without permitting a forraign Agent to intermeddle; and his Majeſty might with that relieve the Pope as he ſhould ſee occaſion. But take in the Hiſtorian his own words. [p] *Conſuluit Rex Epiſcopos ſuos & clerum Angliæ de petitione ſummi Pontificis: cui Epiſcopus & Clerus conſuluerunt, ut ipſe ſecundum voluntatem ſuam & honorem faceret auxilium Domino Papæ, tam pro ſe quam illis; quia tolerabilius eſſet, & plus placeret eis, quod Dominus Rex, ſi vellet, accepiſſet ab eis recompenſationem auxilii illius, quam ſi permiſiſſet nuncios Domini Papæ in* Angliam *venire, ad capiendum de iis auxilium; quia ſi aliter fieret, poſſet verti in conſuetudinem, ad detrimentum regni. Adquievit Rex conſilio eorum, & fecit auxilium magnum Domino Papæ in auro & argento.* The judicious reader may obſerve hence things very remarkable: as, that the King did in points concerned the Pope conſult with the Engliſh Church, and followed their adviſe; the great care the Clergy took to avoid any ſiniſter conſequence in future, and therefore did themſelves give to the Prince, as to whom it was due from them, and not to the Pope, who by cuſtome might come to claim it: as indeed he did after ſtep ſo far, as to prohibit their giving the King at all, without [q] his licenſe, endeavouring the gaining a ſupremacy over them as well in Temporalls as Spiritualls, who hitherto had not meddled with collections of that nature.

[p] Hoveden *Ann.* 1183. fol. 354. b. 43.

[q] *De immunitate Eccleſiæ in Sexto cap.* 3. *vid.* Knighton col. 2489, 37.

For the [r] ſame Henry, about 17 years before, (after th' example of the *French*) did cauſe a ſupply be made for.

[r] Gervas. Dorobern. *Ann.* 1166. col. 1399. 7.

for the relief of the Eastern Church; but I do not find it to have been either upon any motion from *Rome*, or any part of what was so levyed to have been converted that way.

9. But the former granted 1183. passing with so great circumspection, perswaded the Popes not to think fit sodainly (as it seems) of attempting the like; yet that the Church of *England* might not be unaccustomed to paiments, they sometimes exhorted Christians to the subvention of the *Holy Land*, and thereupon did distribute Spirituall Indulgences (which cost them not a farthing) and procured Princes to impose on their Subjects for that end: so did [f] *Clement* the 3. or rather *Gregory* the 8th. about 1187. stir up *Hen.* the 2. and *Philip Augustus*, [t] *Innocentius* 3. King *John*: and, as a generall Superintendent over the Clergy, did then intromit himself and his Agents in the raising of it, and so did convert some good proportion to his own use; insomuch as *Iohannes Ferentinus*, sent hither 1206. from the same *Innocentius* 3us, [u] carryed hence a good quantity; upon which King *John* writ unto the Pope 1207. [x] *quod uberiores sibi fructus proveniant de regno Angliæ, quam de omnibus regionibus citra Alpes constitutis*, &c. Yet truly, to raise any considerable summe of mony from the whole body of the Clergy, for support of the Papall designs, I do not find any great attempt before *Gregory* the IX. 1229. [y] demanded a tenth of the moveables, of both Lay and Ecclesiasticks: to which the Temporall Lords would not at all assent, *Nolentes Baronias vel laicas possessiones Romanæ Ecclesiæ obligare*; and the Clergy were unwillingly induced to the contribution. The Pope thus entred, meddled no more with the Lay, but of [z] the Clergy eleven years after he demanded by his Legat a *fifth* part of their goods. Many meetings were had about it: [a] they shewed the King, they held their Baronies of him, and could not without his assent charge

[f] Newbrigensis *lib.* 3. *cap.* 21, 22, 23, &c. Hoved. *Ann.* 1187. *fol.* 363. b. & *sequentibus.* Ger. Dorobern. *c.* 1522. 11.

[t] Mat. Paris *Ann.* 1201. *pag.* 206, 54. *Ann.* 1202. *pag.* 208. 12.

[u] Mat. Paris *Ann.* 1206. *pag.* 214, 33.

[x] Mat. Paris *p.* 224, 25.

[y] Mat. Paris *pag.* 361, 2, 49. *pag.* 362, 9.

[z] Mat. Paris *Ann.* 1240. *pag.* 526, 20.

[a] Pag. 534, 8, 39.

charge them; that having formerly given a tenth, this of a *fifth* might create a cuſtome: and at a meeting in *Berkſhire* exhibited ſundry ſolid reaſons (too long to be here repeated) againſt the contribution. But nothing would ſerve; the King made for it, and th' Archbiſhop out of private ends paying it, they were in the end forced to yield ſuch a ſupply, as at his departure the year following it was ſay'd, [b] there did not remain ſo much treaſure in the Kingdome, as he had in three years extorted from it (the veſſells and ornaments of Churches excepted.)

[b] Mat. Paris *Ann.* 1241. *pag.* 549, 21.

10. But neither the paying it with ſo great reluctancy, nor the [c] Remonſtrance prefer'd in the Councell of *Lions* 1245. from the body of the Kingdome, of the ſeverall exactions the Nation lay under from *Rome*, and likewiſe [d] to the Pope himſelf the year following, could any way ſtop the proceedings; but *Innocentius* 4^tus. 1246, [e] invented a new way, to charge every Religious houſe with finding and paying a quantity of ſouldiers for his ſervice in the wars for one year: which being required from both the *Engliſh* and *French*, produced here thoſe prohibitions in the ſame Author againſt raiſing any *Tallagium* or *auxilium*. But the French cauſed their Agent to uſe a ſerious expoſtulation in the buſineſſe; which, becauſe it is not printed, I ſhall deliver at large as I [f] find it. *Nuncii de novo acceſſerunt, nova gravamina addentes ſupradictis: Nuper enim mandaviſtis Eccleſiis, ut quia perſecutor veſter ad partes iſtas venturus eſt, mittant vobis militiam munitam ad reſiſtendum ei, quia non eſt concilium cedere venienti; ſuper quo ſatis excuſabiles ſunt Eccleſiæ, quia non habent militiam, nec eſt in parte eorum mittere quod non habent, quos etiamſi haberent & mitterent, non eſt tutum confidere de ipſis. Nec ſcitur etiam de illis, utrum venturus ſit, quia etiamſi veniret, præferendum eſſet (ut videretur) concilio humano concilium Domini, qui dicit, Si perſecuti fuerint vos in unam civitatem, fugite in aliam, &c.* And in the ſame year he [g] attempted the

[c] *Apud* Mat. Paris *p.* 666, 51.

[d] *Apud* Mat. Paris *Anno* 1246, *p.* 698, 40, 51, *&c.*

[e] *Ibid. pag.* 701, 56. *pag.* 707, 30. *pag.* 708.

[f] In Lugubri querimoniâ *Additament.* Mat. Paris *MS. de qua ſupra, cap.* 3. *n.* 59, 67.

[g] Mat. Paris *Ann.* 1246. *pag.* 707, 2. ut ſi clericus ex tunc decederet inteſtatus, ejuſdem bona in uſus Domini Papæ converterentur.

making himself heir to any Clerk that should die intestate; and the year ∴ following received from the Clergy eleven thousand marks, *exceptis exemptis & tribus clericis*, as an addition to six thousand he had received the ∴ year before.

∴ Mat. Paris p. 730, 16.

∴ Ibid. Ann. 1246. p. 715, 16.

11. I shall not here take upon me to repeat all the times and wayes by which the subject had his purse thus drained, the labour would be too great, and the profit too little: it shall suffice to note, the Court of *Rome*, by much strugling, overcame in the end all difficulties, & did arrive to that height, the [h] Commons were forced in Parliament 1376. to prefer this petition: *Si tost come le* Pape *voet avoir monoie pur maintenir ses guerres de* Lombardy, *ou ailleurs pur despendere, ou pur raunson auscuns de ses amys prisoners* Fraunceys *prises par* Englois, *il voet avoir subsidie de Clergie d'*Engleterre; *& tantost celuy est grantez par les Prelats, a cause qe les Eveskes n'osent luy contrestere, & est leve de Clergie sans lour assent ent avoir devant: Et les Seculers Seigneurs my preignent garde, ne ne font face coment le Clergie est destruict, & la monoye de Royalme malement emporte.*

h Rot. Parl. 50. Ed. 3. n. 107.

12. And indeed the Kingdome had great reason thus to complain: see one of many examples that may be alledged. In the year 1343, the 17. *Ed.* 3. *Clement* the 6. sent hither to provide for two Cardinall Priests, one out of the Province of *York*, the other *Canterbury*, in spirituall livings, to the value of 1000. marks a piece, [i] *sur une si generale & coverte maniere, qe la somme passera dix mille marqes avant qe le doun soit accept.* But the State would not endure this, [k] but chasing their Agents out of the Kingdome, the King sent through every County, [l] *Ne quis ab eo tempore & deinceps admitteretur per bullam, sine speciali licentia Regis*: And a little after, the Parliament held the 20. of *Ed.* 3. 1346. the Commons yet more plainly, [m] *Nous ne voulons soeffrer qe payement soit fait as Cardinalx, pour lour demoere en* France

i Rot. Parl. 17. Ed. 3. n. 59.

k Walsing. Hist. p. 150, 30.

l Hen. Knighton. col. 2583, 50.

m Rot. Parl. 20. Ed. 3. n. 33. n. 35.

France *de treter*, &c. And ſoon after they repreſent this very particular of 2000. marks to be [n] *en anientiſſement de la terre*, and *encreſe de nos enemies*; and therefore *qu'ils ne ſoient en nul maniere ſoefferts*, &c. In both which his Matie. gives them content.

[n] N. 35.

13. Neither did the Papacy, having gained the poſſeſſion (as I may term it) of taxing, impoſe theſe payments for one year onely upon forreign Churches, as at firſt, but for ſix ſucceſſively one after the other. So did [o] *John* the 21. in the year 1277. and [p] *Clement* the 5. in the Councell of *Vienna* 1311. pretending an employment againſt the Infidells; but procuring Princes to joyn with them in the collecting, that it might be pay'd with more facility, (and therefore gave them either the [q] whole, or part of what was ſo raiſed; from whence no doubt grew that proverb ſo full of infamy, [r] *That the King and Pope were the Lion and Wolf*) did in the end (as we have heard) convert the treaſure to the ranſoming their friends, the maintenance of their wars, and ſuch like mundane ends. The [s] *French* affirm, the firſt of their Kings who ſhared with *Rome* in theſe levies, to have been *Charls le Bel*, about 1326. which if it were, our Kings were before them; but ſuch as ſucceded knew there as well as elſewhere, how to apply what was thus gather'd wholy to themſelves, wiping the Popes clean out: and notwithſtanding all [t] complaints in that kind from *Rome*, [u] *Duarenus* obſerves the Crown of *France* to have none more certain or ſpeedy revenue, then that is thus raiſed of the Eccleſiaſticks.

[o] Wmus Thorne *col.* 1926, 27.
[p] Walſing. *Hiſt. p.* 73, 3.
[q] *Vide* Mat. Paris *Anno* 1252. *p.* 849, 12.
[r] *Ibid. Anno* 1255. *p.* 917. 39.
[s] *Chronicon de Regibus Francorum ad finem* Pauli Æmilii, *Ann.* 1326. & du Tillet *in Chronico.*
[t] *Vide Hiſt. del Concil. Trident. in* 4to, *lib.* 5. *p.* 408.
[u] De beneficiis *lib.* 7. *c.* 1. *in fine.*

14. But theſe exactions grew ſo burthenſome, *Martin* the 5th. at [x] the Councell of *Conſtance* 1417. was conſtrained to eſtabliſh, *Nullatenus imponantur generaliter ſuper totum clerum, niſi ex magna & ardua cauſa, & utilitate univerſalem Eccleſiam concernente, & de conſilio & conſenſu & ſubſcriptione fratrum noſtrorum, ſanctæ Romanæ Eccleſiæ Cardinalium & Prælatorum, quorum conſilium*

[x] *Concil. Conſtant. Seſs.* 43. de Decimis & aliis oneribus: *concil. gen. Romæ*, *pag.* 279. & *pag.* 297.

silium commode haberi poterit; nec specialiter in aliquo regno vel provincia, inconsultis prælatis ipsius regni vel provinciæ, &c. Upon which Decree a supply of the *Tenth* being y twice demanded, *viz.* 1515, and 1518. by *Leo* the xth. against the *Turk*, th' *English* Clergy denyed them both times. Thus the Papacy by little and little gained in *England* the power of sometimes laying that Tax on Church-men, is to this day known by the name of a *Tenth*, which became limited, as we have seen; and after by z statute the 26. *Hen.* 8th. transfer'd to the King to be pay'd annually unto him; as were likewise the *First fruits* or profits of one year, commonly called *Annats*, (for I take them to be the same) of all spirituall livings: of which a word.

y Herbert. *Hist. Hen.* 8. *pag.* 57. *p.* 59. *& Bullæ sive Epistolæ* Leonis *de eadem re, quas vidi manuscr.*

z 26. *Hen.* 8. *cap.* 3.

15. The first raising of them seemeth to have been, that when the Court of *Rome* did confer on Clerks and Chaplains residing with them, benefices in the Dioceses of others, they who thus obtained from that Chair not onely the Spirituall, or Ordination, but likewise the Temporall of Profit, did at first, either to shew their gratitude, or for that the Pope would have it so, voluntarily give the whole, or some part of the first years revenue to the Court, by whose favour they received all: and the Papacy perceiving the gain did thus accrue, laboured to extend it farther; was in some sort imitated by other Bishops; and for avoyding the shew of Simony, cover'd what was thus took with the names of *Annates*, *Vacantiæ*, * *Minuta servitia Scripturæ*, and such like. But as *St. Gregory* a tolerating onely a liberality to be given after the reception of the *Pall*, his successors knew how to turn it to a revenue; so these, however at first begun, did afterwards become annually a profit. What

*Minuta servitia *were small paiments, such as had any expedition in the Court of* Rome *were lyable unto, as fees to certain Officers or servants of the Pope, called therefore* familiares Dni. Papæ: *as of late, such as renewed leases of the Archbishop of Cant. did to his Secretaries, and others of his retinue.* 1389. *there was payed* 4 *of these to the Pope, and one to the dependents on the Cardinalls.* Thorn *col.* 2194. 31. *the rest have no difficulty.* a *Lib.* 4. *Epist.* 44. *Indict.* 13.

others

others did in this kind, is not neceſſary to that I treat of; but upon the practice of the Church of *Rome*, the 25. *Ed.* 3. the Commons [b] exhibit this petition to the King: *Prie ſa Commune*, &c. *de veer & regarder*, &c. *Coment le Pape ne ſoloit avant ces heures faire reſervations de nul benefice de ſeint Eſgliſe, ſi'l ne fuſt de benefice de ſes Chapleyns, ou de ſes Clerks qe moreront en la Court de Rome; & ore tard & de novel pur covetiſe d'avoir les primers fruicts, & les autres profitz qe endependent, ad' reſervee & reſerve de jour en autre a ſa collation generalement & eſpecialment, ſi bien Abbeies & Priories, come toutz les autres grantz beneficez* d'Engleterre *qe ſont de Patronage eſpiritel, & generalement il ad' reſervee ore tard toutes les dignites* d'Engleterre, *& Provendres en Eſgliſes Cathedralles, & les donne ſi bien as Aliens come as Denezeins, & iſſint ad le Pape toutz les primers fruicts des dits benefices.* By which it appeares, the Papacy, that formerly took the firſt-fruits of onely ſuch livings as men dyed poſſeſt of in the Court of *Rome*, had an intent of extending them to all were *de Patronage eſpiritel:* but whether an active King ſtopt upon this the endeavours of that See, or the Popes, wiſe men, thought it not fit to make too ſodain an irruption into the profits of other Churches, is not greatly materiall; [c] but 25. years after, the Commons again repreſent the Popes Collector, *Ore de novel ceſt an & ne le preſt unges devant al oeps du Pape les primiers fruitz de cheſcun benefice, dont il fait proviſion ou collation, except de graces grantez aux povres, ou il ne ſoleit prendre nulles fruictes forſqe ſoulement des beneficez vacantz en la Court de* Rome.

b *Rot. Parl. Octav. Purif.* 25. *Ed.* 3. *n.* 13.

c *Rot. Parl.* 50. *Ed.* 3. *n.* 109.

16. But in whoſe time theſe firſt-fruits began to be taken, there ſeems to me ſome difference amongſt writers. *Theodoricus à Niem* (who lived in the Court of *Rome*, Secretary as ſome write to *Gregory* the xi. or rather, as it ſeems to me, of *Vrban* the vi.) [d] ſayes, *Boniface* the ix. *circa decimum annum ſui regiminis*, viz. 1399. *primos*

d *De ſchiſmate inter Vrbanum 6. &c. lib. 2. cap. 9.*

primos fructus unius anni omnium Ecclesiarum Cathedralium & Abbatiarum vacantium suæ cameræ reservavit, ita quod quicunque extunc per eum promoveri voluit, ante omnia cogebatur solvere primos fructus ecclesiæ, vel monasterii cui præfici voluit, &c. With whom [e] *Platina* agrees; *Annatarum usum primus imposuit*, (Bonifacius ix.) *hac conditione, ut qui beneficium consequeretur, dimidium annui proventus fisco Apostolico persolverent: sunt tamen qui hoc inventum Iohanni xxii. ascribunt*, &c. The same likewise [f] *Polidore Virgil* affirms, though he speak as if some thought them of an higher time, which under favour I do not credit; for [g] *Nicholaus Clemanges*, in the treatise he writ concerning them, saith, that when such reservations fell into consideration in the Councell of *Constance* (he lived whilst it sate) no beginning could be assigned before *Iohn* the *xxii.* began them, *pro certo passagio ultramarino, & quibusdam aliis necessitatibus suis.* To which I may adde the opinion of the wise and learned [h] Cardinall *d'Ossat*: Iehan xxii. *François de nation, dont il me deplaist, fust le primier que outre les taxes & Annates qu'il inventa*, &c. And *Ranulphus Cestrensis*, one of that time, [i] saith of him, *Beneficiorum per mortem seu resignationem vacantium, sive per translationem, primos fructus reservavit, ita ut Rector institutus taxationem beneficii sui aut residuum taxationis acceptaret: ex qua cautela innumerabiles thesauri ad manus Papæ devenerunt*, &c. and *Knighton* himself, [k] *reservavit curiæ omnes primos fructus vacantium Ecclesiarum, sive per mortem sive per resignationem*, &c. [l] Walsingham 1316. *Summus Pontifex reservavit cameræ suæ primos fructus beneficiorum omnium in* Anglia *per triennium vacantium*: which not occurring of any Pope before, I cannot ascribe other to have begun them then he; who though, in a * bull dated the 5. Ianuary 4. *Pontificatus*, he mention *Fructus redditus, proventus, primi anni beneficiorum*, yet by the doubts

[e] Platina *in Vita Bonifacii* ix.

[f] *De invent. rerum lib. 8. cap. 2.*

[g] *Tract. de Annatis non solvendis, in fasciculo rerum expetend. & fugiend. fol. 189. Et inter opera ejus pag. 82. col. 2.*

[h] *Epist. 296. Romæ 22 Decembr. 1601.*

[i] *Polychron. lib. 7. cap. 42.* apud Hen. Knighton *col. 2534, 8.*

[k] *col. 2565, 47.*

[l] *Hist. Anno 1316. p. 84, 45.*

* *De præbendis & dignitatibus cap. 11. extravagant. Commun.*

doubts he there reſolves, ſhews the practice of them then newly brought into the Church. But whereas the [m] writers before-named agree, the *English*, of all Nations, never received in this the full extent of the Papall commands, I conceive it to ariſe from the good Laws they made againſt them: of which before, and after.

[m] Clemanges, Platina, Polidor.

17. It is hardly credible how great a maſſe of treaſure was by theſe wayes ſent hence into *Italy*. [n] The revenues th' *Italians* were poſſeſt of in *England* 1245. are accounted not leſſe then 60. thouſand Marks; [o] 1252. it was thought they did amount to 70. thouſand (all which for the moſt drained thither:) and in [p] the Parliament held about an hundred years after, the Commons ſhew, what went hence to the Court of Rome, *tourne a plus grand deſtruction du Royalme qe toute la guerre noſtre Seigr. le Roy:* yet, notwithſtanding ſo many ſtatutes as were made by that Prince, for moderating the exceſſes in this kind, the 50th. they complain, (I ſhall give it contractedly) [q] *the Popes collector here held a receipt equall to a Prince or Duke; ſent annually to* Rome *from the Clergy, for Procuration of Abbeys, Priories, First-fruits,* &c. xx. *thouſand Marks, ſome years more others leſſe, and to Cardinalls and other Clerks beneficed in England as much, beſides what was conveyed to Engliſh Clerks remaining there to ſollicite the affairs of the Nation: upon which they deſire his Maty, no collector of the Pope may reſide in England.*

[n] Mat. Paris *Ann.* 1245. *pag.* 658, 49. *pag.* 667, 36. [o] *Ibid. pag.* 859, 48. [p] Rot. *Parl. Octav. purif.* 25. Ed. 3. *n.* 13. *tent. Ann.* 1351. [q] Rot. *Parl.* 50. Ed. 3. *n.* 105. 106.

18. But the King, as it ſeems, not greatly complying with their deſires, the [r] year following they again inſtance, *that certain Cardinalls, notorious enemies, had procured a clauſe* d'anteferri *to certain benefices, within the Provinces of Canterbury and York; that the Popes Collector was as very an enemy to this State as the French themſelves; that his houſe-keeping here at the Clergies coſt was not leſſe then* 300*l.* *by the year; that he ſent annually*

[r] Rot. *Parl.* 51. Ed. 3. *n.* 78, 79.

* *a la foitz xx. Mill. marcs; a la foitz xx. Mill. lib.*

nually from hence beyond Seas * *at one time* 20 *thousand marks, sometimes* 20. *thousand pounds; and what was worse, espyed the secrets of the Kingdome, vacations of benefices, and so dayly made the certainty known to the said Court; did now raise for the Pope the first-fruits of all dignities and other smaller promotions, causing by oath to pay the true value of them, surmounting the rate they were formerly taxed at: which now in the very beginning ought to be crusht*, &c. *Vpon which considerations they desire, all strangers, Clerks and others* (excepting Knights, Esquires, Merchants, Artificers) *might sodainly avoid the Kingdom; no subjects, without the Kings expresse licence, to be Proctors, Atturneys, Fermors to any such Alyen, under the pain, after Proclamation made, of life, member, losse of lands and goods, and to be dealt with as theeves and robbers; no mony during the wars to be transported out of the Kingdom by exchange or otherwise, on the forfeiture of it.* But to this the answer onely was, *Se tiegnent les estatutz & ordonances ent faites.* Whereupon the next Parliament the Commons prefer'd again three Petitions, touching I. *The paiment of* * *First-fruits taken* come due a la chambre nostre seint Pere, *yet not used in the Realme before these times, was contrary to former treaties with the Pope*, &c. II. *Reservations of benefices.* III. *By that way bestowing them on Alyens, who sundry times employed the profits of them towards the raunsoming or araying their friends, enemies to the King. Of all which they desire his Maty. to provide remedy; as also that the Petitions the two last Parliaments* (of which before) *might be consider'd, and convenient remedy ordained.* To which the answer is, *Les Seigrs. du grand conseil ordeigneront due remedie sur les matires comprises en cestes trois billes precedentes.* And here I take the *grand Councell* to be the *Privy Councell*, not the Lords in or out of Parliament; called the *grand Councell* for the greatnesse of the affairs fell within their cognizance, and

[f] *Rot. Parl. 1. Ric. 2. n. 66, 67, 68.*

* *What each Bishop payed to the See of* Rome *at his entrance for First-fruits,* vide *Godwin.* Catal. in fine unius cujusque Episcopatus.

and[t] named the 5. of *Hen.* the 4. to conſiſt onely of ſix Biſhops, one Duke, two Earls, and other in all to the number of 22.

19. What order they eſtabliſht, I have not met with; it is manifeſt not to have been ſuch as gave the ſatisfaction hoped for, by the Commons[u] renewing in effect both 3°. and 5to. *Ric.* 2. the ſame ſuites: and the inconveniences ſtill continuing, * in the year 1387. 10. *Ric.* 2. *William Weld* was choſen Abbot of *S. Auguſtins* (in the place of *Michael* newly dead,) who troubled with a quartan ague, the *French* and *Dutch* on the ſeas, the King inhibited his going to Rome for confirmation, &c. He thereupon employs *William Thorn*, (from whoſe pen we have the relation) hoping to be excuſed himſelf of the journey; who ∴ ſhewing the ſufferings of the houſe, the miſerable ſtate he muſt leave it in, that he would expoſe it *irrecuperabili caſui & ruinæ*, that the King had commanded his ſtay, was in the end told by the Pope (after all means he could uſe) ∵ *Rex tuus præcipit quod non veniat electus ille, Ego volo quod compareat & examini ſe ſubjiciat*: and again, after yet more earneſt ſollicitation, *quia audivimus turbationem inter Regem & Barones ſuos*, (the fitteſt time to conteſt with a prince) *& multa ſiniſtra de perſona electi, & quod cederet Romanæ eccleſiæ in* ∴ præjudicium, *abſque perſonali comparitione non intendimus ipſum confirmare, ne daretur poſteris in exemplum.* The cauſe hanging three years in ſuſpenſe, the Abbot in fine was forced to appear in *Rome* for his benediction, and returned with it not to his houſe till about the end of *March* 1389. the 12. *Ric.* 2. After which, the next[y] Parliament obtained the ſtatute of *Premunire*, againſt the Popes conferring any Benefice within the ſaid Kingdome from the 29 of *Ianuary* then enſuing; and no perſon *to ſend or bring any ſummons, or ſentence of excommunication againſt any for the execution of the ſame law, on the pain of being arreſted, put*

[t] *Rot. Parl.* 5. *Hen.* 4. *n.* 37. *vide* 10. *Ric.* 2. *n.* 20.

[u] *Rot. Parl.* 3. *Ric.* 2 *n.* 37. 13. *Ric.* 2. *n.* 6. 7. *Hen.* 4. *n.* 31. 11 *Hen.* 4. *n.* 39.

[x] Wm. Thorne *col.* 2184, & *ſequent.*

∴ *col.* 2186, 40.

∴ *col.* 2187, 62.

∵ *cap.* 3. *n.* 13, 14.

[y] 13. *Ric.* 2. *cap.* 2. & 3. *ſtat.* 2.

in prison, forfeiture of his lands, tenements &c. *and incurring the pain of life, member,* &c. The intent of which law ∴ *Polidor Virgil* rightly interprets to have been, a confining the Papall auctority within the Ocean, and for the frequent exactions of *Rome, ut nulli mortalium deinceps liceret pro quavis causâ agere apud Romanum Pontificem; ut quispiam in* Anglia *ejus autoritate impius religionisque hostis publice declararetur, neve exequi tale mandatum si quod ab illo haberet,* &c. To which law three years after some other ∴ additions were made: and none of these were ever repealed by Queen *Mary*, who though she did admit a union with the Church of *Rome*, yet in restoring the Popes Supremacy the State used so ∴ great caution, as it ever seemed to me rather a verball then reall admission of his auctority; which it seems her Majesty well understood, in that she would never permit *Peito* to appear before her in the quality of either Cardinall, Bishop, or Legat, to all which he was preferred by *Paulus* 4. But where ∴ some would excuse these and such like laws, as past by *consent and toleration from Rome*, or at least *by the importunity of the Lay*; that I have said doth enough shew the Papall care, in suffering nothing, they could stop, might any way prejudice that See. And for the Bishops passing the 16 *Ric.* 2. pressed by the Temporalty, it is so much otherwise, as that Statute is enrolled on the desire of the Archbishop of *Canterbury*, Rot. Parl. 16. Ric. 2. numero 20. in fine.

∴ *In Ric.* 2. *hist. lib.* 20. *pag.* 417, 32.

∴ 16. *Ric.* 2. *cap.* 5.

∴ 1. & 2. *P. & M. c.* 8. *see* Cook *Inst.* 3. *pag.* 127.

∴ *Catholick Divine his answer to Sr. Ed. Cook, cap.* 12. *n.* 37. 49. *pag.* 305, 311.

20. In the same Parliament, the Commons, as it seems, much exasperated against the Popes collectour, do yet farther [z] petition, he may have the warning of fourty daies given him to be gone out of the kingdome, *sur peine d'estre pris come enemy du Roy & ranceone; & qe desore en avant nul collectour soit demoerant deinz le Royalme d'* Engleterre, *s'il ne soit lige du Roy, & qe mesme ceſtui face nul rien a contraire de l'estatute de Provisors fait en ceſt presente Parlement, sur peine de vie & de membre, sanz*

[z] Rot. Parl. 13. Ric. 2. n. 43.

ſanz perdon, conſiderant les meschiefs & damages qe les Collectours eſtranges ount faitz deinz le Royalme devant ces heures. But to this the anſwer only is, *Le Roy s' adviſera.*

21. After theſe petitions and laws, however they ſufficiently barr'd the Court of *Rome* from medling with this Church, and enough ſhewed the right of the Kingdome in reforming of it ſelf, and redreſſing all inconveniences came unto it from beyond ſea; yet the King having a power of diſpenſing with thoſe ſtatutes, this miſchief enſued: divers who eaſily obtained letters of proviſion to a good benefice from the Papacy, ſued to the King (who held fair correſpondency with the Popes) that they might put his bulls in execution; who delayed his conceſſions ſometimes a year or longer, after the vacation of the living, during which the Ordinary had admitted ſome able perſon into the place, who then began to be diſturbed: for prevention of which, the [a] ſtatutes of 7. *Hen.* 4. and 3. *Hen.* 5. were made, that no licence ſhould be available againſt any poſſeſt of a living at the day of the date thereof, and farther to make void all ſo granted. After ∴ which the contract, too long to be here inſerted, between *Martin* the 5. and the *Engliſh* Church, for ſetling ſeverall diſputes of Eccleſiaſtick cognizance, as of *uniting benefices, conſolidations*, &c. was concluded; in which the Papacy ſeems to permit ſuch particulars to the *Engliſh* Clergy, as they would not be reſtrained in, though formerly claimed not to be exerciſed but by his auctority. Yet the 8. *Hen.* 5. *n.* 10. the Commons petition, *qe nul perſone, de quel eſtate ou condition qu' il ſoit, ne ameſne* &c. *hors du Royalme d' Engleterre---- or ne argent pour marchandiſe de ſeinte Eſgliſe, ou autre grace ou priviledge d' ſeinte Eſgliſe avoir, ne pour autre cauſe queconque*, &c.

[a] 7 *Hen.* 4. *cap.* 8. 3 *Hen.* 5. *cap.* 4.

∴ Concordata inter Martinum 5. & Eccleſiam Anglicanam *in Actis publicis Archiepiſc. & in Bibliotheca* Cotton. *Manuſcr.*

22. It would be here tedious, and not greatly pertinent, to repeat all the proviſions made in this kind, for the well-governing the Clergy of this Kingdome, and preſerving of them free of deſtruction from abroad;

which yet were never such, but the Pope and his officers did export a great quantity of treasure from them. *William Thorne* hath recorded the disbursements to the Court of *Rome* at the election of *Michael* Abbot of Saint *Augustine* 1375. not to have been lesse then 42 $8^{l}.-17^{s}.-10^{d}$. beside the expence of such as were sent, and what was paid for the loan of mony to make these payments, *viz.* $130^{l}.-18^{s}.-2^{d}$. Our Historians [b] observe, in the Parliament held 1532. 23 *Hen.* 8. it was computed, the Papacy had received out of *England* for only the Investitures of Bishopricks, in the fourty years last past, an hundred and sixty thousand pound sterling, which is four thousand pound by the year: an incredible summe, considering the poverty of the Realm for lack of silver, the weight of the mony then currant, and the strict laws of former Princes against such like transportations.

[b] *Antiquitat. eccles. Britann. in vita Cranmeri pag.* 381. 2. *edit.* 1572. Hall 24. *Hen.* 8. *fol.* ceiii. a. Herb. *in Hen.* 8. *p.* 330.

23. Thus having shew'd the beginning of the Papall auctority with us, and how from the generall power all Bishops received from *Christ*, and the fatherly care such as were instrumentall in the conversion of a people did carry to them as their spirituall children, and the obedience they likewise yielded to their ghostly fathers, the Pope began by steps (as I may say) to exercise a dominion over the Clergy here, and not stopping there, upon various pretences, by severall waies, and (as it appears) degrees, to become so far lord of their Temporalls, that they might not dispose of them, well, contrary to his liking, because he had the sole rule of all committed to him from *Christ*: the first point I conceive sufficiently proved, *viz.* that what was gained thus by great industry, at sundry times, by severall means, could no way speak his superintendency over this Church *jure divino*.

The second point remains, whether our Princes, by the advise of their Clergy, had not auctority to cause them reform this Church, without any new assumption of power, not formerly invested in the Crown: which

which leads me to ſhew what the Regall power *in ſacris* was here held to be, before *Hen.* the 8. and *Rome* divided each from other.

Chap. V.

How far the Regall power did extend it ſelf in matters eccleſiaſticall.

1. BEfore I enter into the diſpute of the right the kings of *England* did exerciſe in the regiment of this Church, I hold it not unneceſſary to ſee, in what Divines hold eccleſiaſtick auctority doth conſiſt. [a] *Bellarmine*, [b] *Turrecremata* and others divide ſpirituall power into *Ordinis*, which they refer to the adminiſtration of the Sacraments; and *Iuriſdictionis*, which they hold double, *internall*, where the Divine by perſwaſions, wholeſome inſtructions, ghoſtly counſell, and the like, ſo convinces the inward conſcience, as it is wholly obedient to his dictates, ſuch as thoſe of St. *Peter* were Acts ii. 37. and *externall*, where the Church *in foro exteriori* compells the Chriſtians obedience. Now for the firſt and ſecond of theſe, the King did not take upon him at all to meddle: for he neither aſſumed to himſelf a power of preaching, teaching, binding, or looſing *in foro animæ*, adminiſtring the holy Sacraments, conferring Orders, nor to any particular is properly annexed to them; only to ſuch things as are of the outward policy of the Church, as that God may be truly ſerved, ſuch as tranſgreſſe the received lawfull conſtitutions even of the Church, fitly puniſhed, by the right of his Crown, the continued practice of his Anceſtours, he could not doubt but he might deal in, cauſing all others, be they Clerks or other, that offend, to ſuffer condigne puniſhment.

[a] *De Romano Pontif. lib. 4. cap. 22. §. 1.*
[b] *Sum. Eccleſ. lib. 1. cap. 93, 96.*

2. For the better understanding how far the ecclesiastick rule of our Princes did extend, we are to know, they were never doubted to have the same within their dominions, *Constantine* had in the *Empire*; and our Bishops to have that St. *Peter* had in the Church. *Ego* Constantini, *vos* Petri *gladium habetis in manibus*, said King *Edgar* to his Clergy, in that his speech so [c] recommended to posterity. And therefore, as after the Christian magistrate began to have government, affairs of most concernment in the Church (as is [d] said) had their dependance on the Emperour, the greatest Synods called by him, and the holy men of those times did not doubt the continuing to him the title of *Pontifex maximus*, as [e] *Baronius* notes, *sine ulla Christianitatis labe*; and as [*] *Constantine* did esteem the Ecclesiasticks τῶν ἐκτὸς τῆς ἐκκλησίας, but himself τῶν ἐντὸς ὑπὸ θεοῦ καθιστάμενος ἐπίσκοπος, them for things within, but himself for matters without by God appointed a Bishop: so the same King *Edgar*, [f] no lesse to be remembred by the *English* then *Charls* the Great by the *French*, was [g] solicitous of the Church of his Kingdome, *veluti Domini sedulus Agricola*, and *Pastorum Pastor*, was reputed and writ himself the *Vicar of Christ*, and by his [h] laws and Canons assured the world he did not in vain assume those titles, and yet *sine ulla Christianitatis labe*, so far as antiquity ever noted.

3. What particulars those were the Emperours did hold τὰ ἐκτὸς τῆς ἐκκλησίας, to be without the Church, belonging as I may say to their *Episcopacy*, nothing can better teach us then their commands yet remaining in the laws they publisht; as in Cod. Theodos. *de feriis, de nuptiis*, &c. *de fide catholica, de Episcopis eccles. & Clericis, de Monachis, de Hæreticis, de Apostatis, de religione, de episcopali judicio*, &c. Cod. Iust. lib. 1. Tit. 1. 2, 3, 4, 5. & passim in eo: and in the Novells, Novel. 6. *Quomodo oporteat episcopos & cæteros clericos ad ordinationes perduci.* Novel. 137. *de ordinatione Episcoporum & Clericorum.*

[c] *apud* Ailredum *col.* 361, 16. Beato Petro cujus vicem Episcopi gerunt. *Capitul. Carol. & Ludovic. lib.* 5. *cap.* 163.

[d] Socrat. *prolog. ad lib.* 5. *Hist.*

[e] *tom.* 3. *Anno* 312. *n.* 100.

[*] Eusеb. *de vita Constantini lib.* 4. *cap.* 24.

[f] Flor. Wigorn. *Anno* 974. *p.* 360.

[g] *Regularis concordia &c. notis* Seldeni *ad* Eadmer. *pag.* 146, 16. & 155, 6, 15. & *Concil.* Spelm. *pag.* 437. *cap.* 7. *pag.* 438. *cap.* 8. *vide leg.* Edwardi *cap.* 17.

[h] *Concil.* Spelm. *à pag.* 444, *ad pag.* 476.

rum. The prefaces to which two laws are remarkable; the first shewing the Priestly office is *Divinis ministrare*, and the Princely, *maximam habere sollicitudinem circa vera D. idogmata, & circa sacerdotum honestatem*, &c. the otherbeginning thus, *Si civibus leges, quarum potestatem nobis Deus pro sua in homines benignitate credidit, firmas ab omnibus custodiri ad obedientium securitatem studemus, quanto plus studii adhibere debemus circa sacrorum Canonum & divinarum legum custodiam?* And accordingly Novel. 123. in 43 chapters he did establish many particulars pertaining to the government of the Church and Churchmen; and Novel. 131. not only [l] appointed the observance of the four first generall Councels, but [m] decrees the place or precedency of the Pope of *Rome* and Archbishop of *Constantinople* should be according to their definitions above all other seats, and how far the Dioceses of some Chairs by him newly erected should extend, besides other points in severall chapters to the number of 15, treating of particulars solely held now of ecclesiastick cognizance; as did likewise *Charls* the Great, and *Ludovicus Pius* in their capitulars in very many places. But with these I have not took upon me farther here to meddle, then by naming some, to shew, they having been practis'd by Emperours, the Kings of *England*, endowed from above with the same auctority *in ecclesiasticis*, might very lawfully within their dominions exercise the like: the question therefore will be, what they did understand their power in the Church to be, and accordingly how far they did extend it in use.

l *cap.* 1.

m *cap.* 2, 3, 4.

See Novel. 146.

4. As for the first, nothing can speak more clear then what themselves publisht on mature and sad deliberation, yet remaining in their laws; in which we find the Regall office thus [n] described: *Rex, quia vicarius summi Regis est, ad hoc est constitutus, ut regnum terrenum, & populum Domini, &, super omnia, sanctam veneretur ecclesiam ejus, & regat, & ab injuriosis defendat*: and a little

n *Leg. Edw. Confes. cap.* 17. *pag.* 142.

tle after, *Debet Rex Deum timere super omnia, & diligere, & mandata ejus per totum regnum suum servare; debet etiam sanctam ecclesiam regni sui, cum omni integritate & libertate, juxta constitutiones patrum & prædecessorum, servare, fovere, manutenere, regere, & contra inimicos defendere, ita ut Deus præ cæteris honoretur, & præ oculis semper habeatur,* &c.

o Leg. *Canut. cap.* 11. *pag.* 109. Iorval. *capite* 31. *col.* 923. *vide cap.* 25. *pag.* 106. Iorval. *cap.* 23.

Canutus,[o] *Nobis omni ope atque opera enitendum erit, qua potissimum ratione ea exquiramus consilia, quæ ad Reipublicæ pertinent utilitatem, pietatem confirment Christianam, atque omnem funditus injustitiam evertant,* &c. *Iorvalensis* renders it, *quomodo possit—— recta Christianitas propensius erigi.*

p Leg. *Inæ in præfat. pag.* 1. *apud* Iorval. *col.* 761, 41.

Ina,[p] *In magna servorum Dei frequentia religiose studebam, tum* * *animorum nostrorum saluti, tum communi regni nostri conservationi*; which *Iorvalensis* reads, *sollicitus de salute animarum nostrarum & de statu regni*, shewing the care both of his subjects souls and bodies, however after a differing way, did in some measure pertain unto him.

* ꝛapla *Saxon.*

5. Neither did these expressions passe only from the worst of our Kings; but from *Ina, Rex maxime pius*, as q *Baronius* stiles him; from *Canutus*, who not only himself 1031. went in devotion to *Rome*, but was acknowledged r *erga ecclesias atque Dei servos benignissimus largitor*; *Edward* the Confessour, a canonized Saint; famous for being the best Kings and holyest men: who did not only leave us in their laws the Kings part, but what they conceived likewise the Bishops was, *viz.* to be s *Dei præcones, divini juris interpretes*, that they were *rerum divinarum commoda prædicare palam*, that for and to the people they should *vigilare, excubare, proclamare*, &c. as those that t *contra spirituales nequitias debent populo prævidere*, by letting them know, *qui Dei præceptis obedire neglexerit, hic cum ipso Deo commune non habeat.* And this is that sword of St. *Peter* mentioned by King

q *tom.* 9. *Anno* 740. *n.* 14. *See* Hunt, *fol.* 194, 30, 42.

r Fubbert. Carnotensis *epist.* 97. *fol.* 93. a. *edit. Paris.* 1608.

s Leg. *Canut. cap.* 26. *pag.* 106. *apud* Iorval. *cap.* 24. *col.* 922, 17.

t *Sequor in reliquis* Iorvalensem.

Ed-

Edgar, which when the holy Biſhops of the primitive times did only put in execution, they neither found Princes backward in ſupporting their deſignes, nor people refractory to their exhortations. Thus we ſee, as they declared the office of a King, they were not ſilent in that of a Biſhop, ſhewing how either laboured in his way the reducing people to piety, and a vertuous life; the one by making good laws for compelling the wicked, the other by giving ſuch inſtructions as convinced the inward man.

6. So that we often meet with the Prince extending his commands to the ſame things the Prieſt did his perſuaſions: as

I. In point of Sacraments, [u] That children ſhould be baptized within 30 days after birth. *Leg. Inæ cap. 2. pag. 1.*

II. And, becauſe it ſeems ſome Prieſts were negligent performers of that duty, [x] That ſuch as were not prepared, or denied the baptizing of them, ſhould be puniſhed. *Leg. Ed. & Guthruni cap. 3. pag. 42. excerptiones* Egberti *cap.* 10, 11, 12. *in concil. Spelm. pag.* 259. where you may obſerve the Kings precept to impoſe on the tranſgreſſor the payment of 12 [y] *ora*, but the Biſhops to be onely perſuaſive.

III. No perſon to be admitted to the Euchariſt, be a Godfather, receive confirmation from a Biſhop, not knowing the *Pater Noſter* and *Belief. Canones dati ſub Edgaro & legibus ejus annexi, cap.* 17. 22. *p.* 67. *&* [z] *Leg. Canuti cap.* 22. *p.* 105. *Spelm. Concil. cap.* 22. *pag.* 599.

IV. That perſons inſtructed ſhould receive the Communion thrice every year. [a] *Leg. Canut. cap.* 19. *p.* 104.

V. Reſtrained by their laws matrimony to the 6th degree of conſanguinity. [b] *Leg. Canut. cap. 7. p.* 101.

VI. Reſerved to themſelves a liberty of diſpenſing with the marriage even of Nuns. [c] *Leg. Alured. cap.* 8. *p.* 25. And it is not to be forgot, in that particular, *Lanfrank* joyns the Kings adviſe (as a perſon of equall power) with his own, [d] *& hoc eſt*, ſaith he, *conſilium Regis & noſtrum.*

u Jorval. *cap.* 2. *col.* 761.

x Iorval. *leg. Aluredi cap.* 5. *col.* 830.

y *What* Ora *was, ſee Mr.* Sumners *Gloſſary.*

z Iorval. *cap.* 23. *col.* 921. 57.

a Jorvalenſis *cap.* 21. *col.* 921. 57.

b *Apud* Iorval. *cap.* 11. *co.* 919

c Iorval. *cap.* 9. *col.* 823.

d Lanfranc. *Epiſt.* 32.

VII. Commanded th' obſervance of Lent *principali auctoritate.* Beda *lib.* 3. *cap.* 8.

VIII. Appointed certain daies to be held feſtivall by the better ſort, but allowed the ſervant and labourer to work in them. [d] *Leg. Aluredi cap.* 39. *pag.* 33. which the laws of *Canutus* ſeem after to take away. [e] *Leg. Canut. cap.* 42, 43. *pag.* 118. See there *pag.* 103. *cap.* 14, 16, 17. which was likewiſe exerciſed 1393. by *Richard* the 2.

[d] Iorvalenſis *cap.* 50. *col.* 826, 60.
[e] Iorval. *cap.* 67, 68, 69, 70, 71, 72. *col.* 927. *vide ibidem col.* 920. *cap.* 17, 18, 19, 20. Thorn *col.* 2197, 15.

I omit here their edicts for the obſervation of the *Lords day*, payment of *Tythes*, *Incontinency*, and ſuch like, (held now merely of Eccleſiaſtick cognizance) for the multiplicity of them.

IX. Divided old, and erected new Biſhopricks. *Beda lib.* 3. *cap.* 7. *lib.* 4. *cap.* 12. *lib.* 5. *cap.* 19.

[f] *de eccleſ. lib.* 4. *cap.* 8. §. Nota tertio.

And yet this is that [f] Cardinall *Bellarmine* holds a point of ſo high concernment, no man can do it without auctority obtained from *Rome:* which yet we never read to have been asked, ∴ though *Theodore* 679 erected five (*conſenſu Regis*) at one time; and ſome other altogether without the Popes liking, as thoſe in the North, after th' expulſion of *Wilfrid.* Confer *Beda lib.* 4. *cap.* 12. *cum libro* 5. *cap.* 20. But of this before.

∴ Florent. Wigor. *p.* 559.

X. Cauſed the Clergy of their Kingdome to meet in councels. *Malms. fol.* 26. a. 38. and ſometimes preſided themſelves in them, though the Popes Legate were preſent. *Concil. Spelm. pag.* 292, 293. *pag.* 189, *& paſsim ibid. Vita Lanfranci cap.* 6. *col.* 1. *pag.* 7. *Vide Florent. Wigorn. An.* 1070. *pag.* 434.

7. Of the Crowns commanding in theſe particulars, it is apparent to have been in poſſeſſion, the Pope ſeeing and not interrupting any whit, whilſt the *Saxon* and *Dane* bare here the ſway; when, to ſpeak truth, it ſeems to me not ſo much to have been inſiſted on, by whoſe auctority the thing commanded was done, as a care taken of all ſides nothing ſhould be required but juſt, and pious; which

which made each precept, without diſpute, from what author ſoever it proceeded, be readily yielded unto: and ſo the *Normans* found it, under whom the firſt contentions (concerning juriſdiction) with the See of *Rome* began. For before *William* the firſt poſſeſt himſelf of this Crown, it is certain, the *Engliſh* Biſhops had no ordinary Courts diſtinguiſh'd from the Lay, but both ſecular and eccleſiaſtick Magiſtrate ſate and judged together, what pertained *ad obſervantiam religionis locis ſuis, & à ſuæ diœceſeos ſynodis*; as was likewiſe the cuſtome * in *France*.

* *Carol. & Ludovic. cap. lib. 6. cap.* cxi.

8. This were enough manifeſt, in that we find the Lay not only preſent, but ſubſcribers to many of our ancient [g] councels; did not the laws of [h] *Ethelſtan*, [i] *Edgar*, [k] *Canutus* farther aſſure us. It is probable, inferiour judicatures did refer matters of doubt to the greater Courts or ſcypegemot, to be held twice a year, as the former edicts and [l] ſome Councels did eſtabliſh: which produced that care in the Councel of [m] *Celichyth* 816. the Biſhop ſhould tranſcribe judgements given *in qualicunque ſynodo* of what pertained to his dioceſe, and he to keep one copy, and the party whom it concerned another of ſuch determination (which I take to be thoſe laws mentioned by [n] *Eadmerus*, which as they were repoſed in ſome parts of the Church, ſo were the pleas (as it ſeems) uſually [o] there held.) But the Conqueror, finding theſe proceedings to be *non bene, neque ſecundum ſanctorum canonum præcepta*, &c. did by his Charter make a diſtinction of the Courts, that ſuch as were convented by the Biſhop ſhould anſwer *non ſecundum* Hundred, *ſed ſecundum canones & epiſcopales leges* &c. The Charter to *Remigius* Biſhop of *Lincoln* is upon record, [p] publiſhed by many, and was certainly by the Conquerour directed to every Dioceſe through the Kingdome: for I have ſeen in an hand of [q] *Edward* the firſt one for *Lon-*

g *in concil.* Spelman. *paſſim.*
h *apud* Iorval. *col.* 845, 36.
i *cap.* 5. *p.* 64. Iorval. *pag.* 872, 13. *cap.* 10.
k *cap.* 17. *pag.* 3. Iorval. *cap.* 38. *pag.* 924.
l *Concil. Calcuith, apud* Spelman. *cap.* 3. *pag.* 293.
m *apud* Spelman. *concil. p.* 350. *cap.* 9.
n Eadmerus *apud* Gervaſium Dorobernenſem, *col.* 1292, 18.
o *Apud* Gervaſ & Sim. Dunelm. *ſive* Turgot. *de Dunelmenſi eccleſia lib.* 3. *cap.* 10. *col.*

35. 6. p *See it in Sr.* Ed. Cook *Inſt.* 4. *cap.* 53. *p.* 259. q *in antiquo Manuſcr.*

London, testifying it was then found in the Episcopall register there.

9. When this past the King, whether at the Popes Legats being here for deposing *Stygand* 1070. (about which time Historians remember he made some beginning for settling the *English* laws, and is therefore likely to have then past this) or when they were here for settling the dispute between *York* and *Canterbury*, or at what other time, is uncertain. Yet I cannot deny, it seemeth to me to have given th' occasion of those expressions in [r] *Alexander* the 2. his letter to him, that the world, *in maligno positus, plus solito pravis incumbat studiis; tamen inter mundi principes & rectores egregiam vestræ religionis famam intelligimus, & quantum honoris sanctæ Ecclesiæ tum Simoniacæ vires opprimendo*, (which is apparently spoken of *Stygand*) *tum catholicæ libertatis usus & officia* (by which questionlesse he points at this charter) *confirmando, vestra virtus impendat, non dubia relatione cognoscimus*, &c. Now certainly, if he did grant it during the life of the Pope, it must not have been after 1073. in which year he died. I confesse, I have not met with any clear example of the practice of it during the reigns of that King, or either of his children: For though *Anselme* about 1106. writes to *Henry* the first, (who had punisht certain Clerks not observing the decrees of a Councell held at *Westminster* 1102) [t] *quod hactenus inauditum & inusitatum in ecclesia Dei de ullo Rege & de aliquo principe; non enim pertinet secundum legem Dei hujusmodi culpam vindicare, nisi ad singulos episcopos per suas parochias*: yet I conceive this is to be interpreted of the King doing it alone without the Bishop, not when they both joyned together after the manner then in use, which himself elsewhere [u] advises *Rufus* unto; *Conemur unâ, tu regia potestate & ego Pontificali authoritate, quatenus tale quid inde statuatur, quod cum per totum fuerit regnum divulgatum, solo etiam auditu, quicunque illi-*

r apud Baron. tom. 2. Ann. 1071. n. 9.

t Eadmer. p. 85, 40.

u apud Eadmer. pag. 24, 18.

lius fautor eſt paveat & deprimatur. I can take this for no other, but that in the laws of [x] *Ethelſtan, Debent epiſcopi cum ſeculi judicibus intereſſe judiciis, ne permittant, ſi poſſint, ut aliqua pravitatum germina pullulaverint.* And the laws of [y] *Henry* the firſt are expreſſe, the uſe to have continued in his daies; for they approve the ancient inſtitution, That *generalia Comitatuum placita certis locis & vicibus convenire debere,* That the Iudges in thoſe Courts were *Epiſcopi, Comites, Vicedomini,* &c. The cauſes they dealt in, and order of proceeding, *agantur primo debita veræ Chriſtianitatis jura, ſecundo Regis placita, poſtremo cauſæ ſingulorum,* &c. And why may not *certa loca* here be what *Anſelme* calls *Parochia,* the Conqueror *Hundred*?

x *Apud* Iorvalenſem, col. 845, 36.

y *Leg. Hen.* 1. *cap.* 7. *p.* 180. 30.

10. But good laws are not alwaies ſuddenly put in execution; and this of the Conqueror we may take to have ſlept, till towards the beginning of King *Stephen's* time it had got ſome ſtrength, for then we meet with plain precedents of the Eccleſiaſtick Courts being ſever'd from the Lay. *Theobald* of *Canterbury* moleſting the monaſtery of St. *Auguſtines* concerning certain Priviledges granted from the Papacy, th' Abbot obtained a bull from *Innocentius* 2. of the 20 *November* 1139. in his houſes favour, in which the Pope expoſtulates with th' Archbiſhop, [z] *quod occaſione privilegii noſtri, idem monaſterium vehementer infeſtas, & eccleſias eidem cœnobio pertinentes eundem abbatem ordinare non ſines, quin potius violenta dominatione eccleſias eorum firmatas diceris infregiſſe, & presbyteros tuos, invito Abbate, & ejuſdem loci fratribus, contra* Romanæ *eccleſiæ privilegia, quibus idem cœnobium eſt munitum, in eis ponere præſumpſiſſe: nec his contentus, abbatem ipſum, & homines ejus,* ad placitandum ſuper hoc in curiam tuam, *prout aſſerunt, præſumptuoſe traxiſti, eiſque ob eam rem pœnam molieris infligere,* &c.

Leges inſtituuntur cum promulgantur, firmantur cum moribus utentium approbantur. Diſt. 4. *cap.* 3.

z *Habetur hæc bulla in ſplendido Ms. repoſito in aula Sti. Trinitatis Cantabr. ante* 200. *annos exarato, & in alio Ms. optimæ notæ ante quadringentos annos ſcripto in Scachario.* fol. 49. b.

11. *William Thorne,* who [a] mentions this 1139. 4. 46.

a *Col.* 1800.

Steph. obſerves (which is warranted by the bull it ſelf) *quod iſte* Theobaldus *primo Abbatem & conventum ad cauſas trahere conatus eſt*, and is the firſt I have noted in which th' Eccleſiaſticks alone did force men to plead in their Courts; which, as it doth prove they then had them, ſo we may conclude them not long to have been poſſeſt of that power: for it is altogether improbable, if that act of King *VVilliam* had been in his and his ſonns time generally practic't, but ſome Archbiſhop, in above fifty years, might have attempted as much, if not to the Abbot, at leaſt to ſome other; as after this the examples are frequent, of which one in the 122 epiſtle of *Iohannes Sarisburienſis* is not unworthy the remembring. *Symphorian* a Clergy-man of *York*, accuſed one *Osbert*, Archdeacon of the ſame Church, before king *Stephen*, the Biſhops and Lords, 1154. for making away *VVilliam* the late Archbiſhop of that See by poyſon. A queſtion grew, to whether Court this cauſe belonged. The King affirmed it to belong to the temporall, for the heynouſneſs of the fact, and becauſe it was firſt entred upon in his preſence. But before the deciſion *Stephen* dyed, and *Henry* the 2. ſucceeded; *de cujus manibus* (ſaith my Author) *vix cum ſumma difficultate, in manu valida, cum indignatione Regis & omnium procerum, jam dictam cauſam ad examen eccleſiaſticum revocavimus*; from whence it was by *Appeal* carryed to *Rome*.

12. But what this *manus valida* ſhould be, that took the caſe from the King, I cannot imagine: for it is undoubted, in all diſputes of this nature, the Kings Courts have been ever Iudges to what Court the cauſe did belong. *Bracton* ſpeaks very clearly; [b] *Iudex eccleſiaſticus cum prohibitionem à Rege ſuſceperit, ſuperſedere debet in omni caſu, ſaltem donec conſtiterit* in curia Regis *ad quem pertineat juriſdictio: quia ſi Iudex Eccleſiaſticus æſtimare poſſit an ſua eſſet juriſdictio, in omni caſu indifferenter procederet non obſtante regia prohibitione*, &c. and 1080 *VVilliam*

b *Lib.* 5. *de exceptionibus cap.* 15. §. 3. *fol.* 412. a.

liam the firſt, in a [c] Councell at *Illebon* in *Normandy*, by th'adviſe of both eſtates, Eccleſiaſtick and Secular, did ſettle many particulars to belong to the cognizance of the ſpirituall Iudge; and concludes, that if any thing were further claimed by them, they ſhould not enter upon it, *donec in curia Regis monſtrent quod habere debeant.* Neither were the Lay to moleſt them in the exerciſe of ought there mentioned, *Donec* in curia Regis monſtrent *quod Epiſcopi inde habere non debeant.* So in both reſerving the deciſion to his own Courts, of what pertained to each: in ſo much as, what that ſtrong hand ſhould be, did thus take this from the King, I muſt profeſſe not to underſtand. And that our Kings had ever an inſpection over thoſe Courts, is not to be doubted, by the Charge againſt *Becket*, in which *Henry* the 2. urgeth, [d] *quod cuidam* Iohanni *coram ipſo litiganti plenam juſtitiam non exhibuit, & ſuper hoc ad Regis præſentiam vocatus, venire contempſit.* To which th' Archbiſhop anſwered, *præfato* Iohanni *condignam non defuiſſe juſtitiam, &* Iohannem *non legaliter curiam ſuam infamaſſe, qui non ſuper evangelium, ut moris eſt, ſed ſuper veterem cantuum codicillum, quem ſecum tulerat, voluerit pejerare*, &c. and for his not attending the King, to give him ſatisfaction in the point, pleaded th' excuſe of ſickneſſe; yet for that contempt was adjudged to looſe his moveables.

[c] *Concil. Illebon. cap.* 47. *apud* Ordericum Vitalem *p.* 552, 554.

[d] *Apud* Ger. Dorobern. *col.* 1389, 37. *An°* 1164. *ſee* Rot. *Parl. at* Leiceſter, 2. *Hen.* 5. *pet. des Cōes.* 5.

By which it is evident, th' Archbiſhop did then [e] exact oaths of ſuch as were called into his Court, that he was to give an account to the King of his carriage in it, who by his conſtitutions hath ever directed the manner of proceedings in it. See *Mat. Paris Anno* 1247. *pag.* 727, 29. *Anno* 1246. *pag.* 716. 1. But of this [f] more hereafter.

[e] Gervas. Dorobern. *col.* 1389, 42. Hoveden, *An.* 1165. *fol.* 283, a. 22.

[f] *n.* 17. §. xvii.

13. The Conqueror, though he did ſhew ſo much complyance with the *Romaniſt*, as not to deny any thing former Kings had acknowledged to the Papacy as due, yet farther

farther then [g] they had gone would in nothing submit unto it: and as they had by their edicts guided the ecclesiastick affaires of this kingdome, so he proceeded in his lawes, [h] *à quibus sanctæ matris Ecclesiæ sumens exordium*, as did his sonne [i] *Henry* the 1. How far they did conceive this their power to extend in those matters, nothing can better teach us then the lawes they and such as came after them (princes against whom no exceptions can lye) established, and usages they maintained as the rights of the Kingdome, in opposition of all encroachments whatsoever.

[g] *Wann. Gregor. 7. inter Lanfranc. ep. 7. p. 304. & apud* Baron. *tom. 11. An. 1079. n. 25.*

[h] Hoveden, *fol. 343. a. 19.*

[i] *Leg. Hen. 1. cap. 5, 7. & passim ibidem.*

14. To enumerate all these Priviledges (I conceive them with our aunce stors better called Rights) I hold impossible, the foundation or ground upon which they are built being that power the divine wisdome hath invested the secular Magistrate with, for preservation of his Church and people in peace, against all emergencies from whomsoever proceeding; as the Bishops of the Province of *Canterbury* writ to *Thomas Becket* 1167.

[k] *Rex à Domino constitutus paci providet subjectorum per omnia; ut hanc conservet Ecclesiis, & commissis sibi populis, dignitates Regibus ante se debitas & exhibitas sibi vult exhiberi.* And this issuing from so great auctority, as in effect the body of all the Clergy of the realm, cannot be imagined to be other then the constant opinion of th' *English* Church. In what these Rights have been put in practise in opposition to *Rome* (of which I now treat) may in some sort be told: but to say these they are, and no other, is that I mean cannot be. So that we may say the affirmative, *these they are*, but not the negative, *others they are not.* Therefore *Eadmerus* will have it of the Conquerour, that [l] *Cuncta divina simul & humana ejus nutum expectabant*, that is *in foro exteriori*; insomuch as, when the Clergy 1530. gave the King the title of *Head of the Church*, they intended no other then their fore-fathers, when they called

[k] *Apud* Hoved *fol. 292. b. 5.*

[l] Eadmer. *p. 6. 21.*

called him the [m] *Defender, Patron, governor,* [n] *Tutor* of it.

15. Which the *French* do attribute to their Kings with more hard expreſſions; [o] *Ce que monſtre* (ſays one) *que les eveſques de ce temps la, eſtimerent le Roy, aßiſté de ſon conſeil d' eſtat, eſtre apres Dieu* Chef terrien *de l' Eſgliſe de ſon Royaume, & non pas le Pape,* in the negative: Which another [p] explains thus, *Ce n' eſt point pour cela que je vueille dire, ce que aucuns ount trop indiſtinctement proferé, que les dits Roys & Princes Souveraignes ſoient en leurs eſtats privativement à tous autres, Chefs uniques & abſolus de l' Eſgliſe, & de tous les miniſtres d' icelle; car pour le reguard de ce que concerne le maniement des choſes purement ſacrees, come l' adminiſtration de la parole de Dieu, & des Sacrements, & la puiſſance de lier ou delier, voire de regler en particulier le dedans de chacune Eſgliſe, la ſurintendance en appartient aux Eveſques, & autres Chefs de la Hierarchie Eccleſiaſtique, a chaſcun ſelon leur rang & degré.* Then ſhewing by a compariſon, that as the head-Architect leaves to his inferior Agents the uſe of ſuch inſtruments as are proper for their undertakings; ſo, *il n' appartient poynt au Roy de manier les choſes ſacrees, ny ſupporter comme l' on dit l' arche d' alliance, ils doivent laiſſer cela a ceux de la vocation; mais ils peuvent voire ſont tenuz devant Dieu, veiller ſans ceſſe, & avoir l' oeil ouvert a ce que ceux de ceſt ordre & profeßion principale, außi bien que ceux des autres moindres, apportent en loyaute & ſain conſcience tout ſoin, diligence, purete, & ſincerite, au maniement des charges à eux commiſes, conformement a leur loix, regles & canons; leſquels au cas qu' ils ſerroient negligez, & effacez par la rouille de l' antiquite, ou que par la malice des hommes il fuſt beſoign d' enfaire des noveaux, ils ſont tenu uſer de leur puiſſance, pour y apporter des remedes, ſoit par leur Ordonances & pragmatiques, ſoit par leurs jugements, arreſts, & executions d' iceux. C' eſt ce qu' en France nos predeceſſeurs ont tousjours appelle, la police exterieure ſur l' Eſgliſe, de la quelle les Empereurs, Roys & Princes*

m Mat. Paris *An.* 1241. *pag.* 555. 15.
n *Epiſt. Univerſit. Angliæ ibid. An.* 1245. *pag.* 667. 38. *ibidem.*
o Claude Fauchet *en les libertes de l' Eſgliſe Gallicane in* 4to. *à Paris* 1612. *avec Priviledge, p.* 234. & 1639. *p.* 179.
p Charles le Faye *ibid. pag.* 287. *in edit.* 1639. *p.* 230.

Princes ont uſe & jouy ſans contredit, tant que l'eſgliſe ſ'eſt conſervee en ſa purete, & qu' aucuns d' icelle ne ſe ſont ingerez, ſortants de leurs bornes & limites d' uſurper les functions Royales. Inſomuch as *Benigne Miletot* doth not onely affirm their Kings to be [q] *Chefs, Protecteurs, & Conſervateurs de leur eſgliſe Gallicane*; but *pag.* 657. recites a ſpeech of th' Archbiſhop of *Vienna* made to *Henry* the 4. 1605. in which he did affirm, *que le Roy eſtoit le Coeur & la Teſte de leur corps.*

q *du deliſt commun p.* 528. *editionis* 1609.

16. And other *Headſhip* then this I do not know to have been ever attributed to any of our Princes: Certainly they did never take on them the exerciſe of any thing purely ſacred, but as ſupream [r] *Head, Rulers* or *Governours*, under God, by their Commiſſioners (of which ſuch as bare moſt ſway were ever the Spirituality) *to viſit, reform, redreſſe* &c. *all errours, Hereſies, ſchiſms, abuſes*, &c. And for that the ruſt of antiquity (as that authour ſtyles it) had much over-ſpread the Canons of the Church, [s] to aſſigne ſixteen of the Clergy, whereof four to be Biſhops, and as many of the Lay, of which four to be learned in the Common laws of this realme, *to peruſe and examine th' eccleſiaſticall laws of long time here uſed, and to gather, order and compile ſuch laws eccleſiaſticall, as ſhall be thought to his Majeſty, his ſaid* * *Counſell, and them or the more part of them, to be practiſed and ſet forth within this realme.* In purſuance of which, the 11. *November* 5[to] of *Edward* the 6. he nominated two Biſhops, two Divines, two Doctours of the Law, two Eſquires, to ſuperviſe the eccleſiaſtick laws of this Kingdome, and to compile ſuch a body as were fit to be put in practiſe within his Dominions; whoſe intendments (for it paſt no further) were after printed by *John Day* 1571. and are no other then what the French (for the manner of doing) maintain their King might do: neither doth th' Inquiſition of *Spain* publiſh any thing of that nature, without th' allowance of their King, as I ſhall ſhew [u] hereafter.

r 26. *Hen.* 8. *cap.* 1. 1. *Eliz. cap.* 1.

s *Stat.* 3. & 4. *Ed.* 6. *cap.* 11. *ſee before.* 25. *Hen.* 8. *cap.* 19. 27. *Hen.* 8. *cap.* 15. 35. *Hen.* 8. *cap.* 16. * *Councell.*

u *cap* 7. *n.* 12.

17. So

17. So that, in my opinion, the queſtion cannot be, whether Princes are not capable of ſuch a Right; but whether it were inveſted in the Crown formerly, and made good by ſuch a continued practiſe, as might authoriſe ours to take that title (when offered by the Clergy 1530.) as well as the *French* Kings have, without incroaching on that power th' eccleſiaſticks had, and by our laws ought to exerciſe in *England*. Now, certain, our Kings did in many things go along with the *French* in cauſes eccleſiaſticall: x*Rex Anglorum, exemplum accipiens ab illis Baronibus qui ſua ſtatuta ſanxerunt in Francia, quibus & Dominus Francorum favorem jam præbuit, & ſigillum appoſuit*, &c. *Clement* the 7. being held priſoner 1527. by th' Emperour, the 18th. of *Auguſt* Cardinall *Woolſy* made an agreement with the *French*, for ſetling th' eccleſiaſtick government of each Kingdome during the Popes captivity. For the *French*, I ſhall remit the reader to the y Deed which is printed; but th' *Engliſh* were to be ſuch as ſhould be agreed to, *prælatis accitis de mandato & auctoritate prædicti invictiſſimi Angliæ Regis*, whoſe determinations were to be *conſenſu ejuſdē invictiſſimi Angliæ Regis*. But where z my Lord *Herbert* conceivs this to have been the firſt taſte our King took in governing the Clergy, I can no way be of his opinion; for, without peradventure, the Cardinall neither did nor durſt have moved one ſtep in making the Eccleſiaſticks leſſe depend on the Papacy, then the Common law or cuſtome of the realm warranted, knowing he muſt without that back have loſt not onely *Clement* the 7. but all Popes and the Court of *Rome*, which muſt and had been his ſupport, on the declining favour of ſo heady and dangerous a Prince as *Henry* the 8th. had he not caſt off both the Cardinall and his obedience to that See almoſt together. But how much he had the Clergy before this under his government, the Hiſtory of a *Richard Hunne* is witneſſe ſufficient: and the rights the Conquerour and his ſucceſſours

x Mat. Paris *Anno* 1247. p. 727, 26.

y *Preuves des libertes de l'egliſe Gallicane, cap.* 20 *n.* 33, p. 529.

z *Hiſt. Hen.* 8. p. 219.

a *See* Hall 6. *Hen.* 8.

were ever in contest with the Papacy about, and maintained as the laws & customs of the Realm, enough shew they did not command th' Ecclesiasticks here according to the will of any forraign potentate, nor were meer lookers on, whilst another govern'd the *English* Church: some of which I shall therefore here set down.

I. They [b] admitted none to be taken for Pope but by the Kings appointment.

II. [c] None to receive letters from him without shewing them to the King, who caused all words prejudiciall to him or his crown to be renounced by the bringers, or receivers of them.

III. [d] Permitted no councels, but by their liking, to assemble; which gained the name of convocations; *as that* [e] *alwayes hath been and ought to be assembled by the Kings writ.*

IV. [f] Caused some to sit in them might supervise the actions, and *legato ex parte Regis & regni inhiberent, ne ibi contra Regiam coronam & dignitatem aliquid statuere attentaret*: and when any did otherwise, he was forced to retract that he had done, as [g] did *Peckham*; or were [h] *in paucis servatæ*, as those of *Boniface*.

V. [i] Suffered no Synodicall deree to be of force, but by their allowance and confirmation. [k] *Rex auditis concilii gestis, consensum præbuit, auctoritate regia & potestate concessit & confirmavit statuta concilii à Gulielmo, Cantuariensi Archiepiscopo, & sanctæ Romanæ ecclesiæ legato, apud* Westmonasterium *celebrati.* [l] *In hoc concilio, ademendationem ecclesiæ* Anglicanæ, *assensu Domini Regis & primorum omnium regni, hæc subscripta promulgata sunt capitula*, &c.

VI. Permitted no Bishop to [m] excommunicate, or inflict any ecclesiastick censure on any Baron or Officer, *nisi ejus præcepto.*

VII. [n] Caused the Bishops appear in their Courts, to give account why they excommunicated the subject.

VIII. [o] Caused

b Eadmer. p. 6, 26. *Vide epist. Hen. Critchley in vita ejus, edit.* 1617. p. 77, 78.
c Eadmer. *ibid. & pag.* 113, 1. Thorn, *col.* 2152, 1. & 2194, 18. & *alibi.* Cook *Inst.* 3. p. 127.
d Eadmer. p. 24. 5. 11.
e *Stat.* 25. *Hen.* 8. *cap.* 19.
f Mat. Paris *Anno* 1237. p. 447, 51.
g *Vide* Seld. *de Synedriis part.* 1. p. 373.
h Lyndwood *de foro competenti, cap.* 1. *Gloss.* 1.
i Eadmer. p. 6, 29.
k Flor. Wigorn. *Anno* 1127. p. 505.
l Gervas. Dorobern. *Anno* 1175. *col.* 1429, 18.
m Eadmer. p. 6. 31.
n M. Paris *Additament.* p. 200 *num.* 7. *See Articuli cleri* 9. *Ed.* 2. *cap.* 7.

VIII. [o] Cauſed ſuch as were impriſoned, after fourty dayes ſtanding excommunicate, to be freed by writ, without th' aſſent of the Prelat, or ſatisfaction giving; [p] the King and his Iudges communicating with them *tam in divinis quam profanis*, [q] and commanding none to ſhun them, though by the Ordinary denounced excommunicate.

IX. [r] Suffered no Legat enter *England* but with their leave; of which before.

X. [ſ] Determined matters of Epiſcopacy, *inconſulto Romano Pontifice.*

XI. Permitted no Appeal to *Rome*; of which before.

XII. [t] Beſtowed Biſhopricks on ſuch as they liked, and [u] tranſlated Biſhops from one See to another.

XIII. Erected new Biſhopricks: ſo did *Hen.* the 1. 1109. *Ely*, taking it out of *Lincolne*, [x] *Carliſle* 1133. out of *York* or rather *Dureſme*: but of this before.

XIV. [y] Commanded by writ their Biſhops to reſidency.

XV. [z] Commanded their Biſhops, by reaſon of Schiſm, vacancie of the Popedome, &c. not to ſeek confirmation from *Rome*, but the Metropolitan to be charged by the Kings writ to beſtow it on the elected.

XVI. [a] Placed by a lay hand Clerks in Prebendary or Parochiall Churches, *Ordinariis penitus irrequiſitis.* And it is not here unworthy the remembring, that *VVm Lyndwood*, a very learned Canoniſt, who writ about an 100. yeares before *Henry* the 8ths difference with *Clement* the 7. finding the Crown in poſſeſſion of this particular not agreeing with the rules of the Canon law, is ſo perplext, as in the end he finds no way to make the act valid, [b] but that he doth it by Papall priviledge: For if by preſcription, *Epiſcopo ſciente & tolerante*, it could not be good; for though the King might confer the temporalls of the Church, *non tamen poteſt dare jure ſuo poteſtatem circa ſpiritualia, viz. circa ea quæ pertinent ad regi-*

o *ibid. n.* 10.

p *ibid. n.* 12.

q *ibid. n.* 13.

r Eadmer. *p.* 58, 40. *p.* 113, 1 *p.* 118, 28.

ſ Eadmer. *p.* 115, 23, 31.

t Flor. Wigorn. *Anno* 1070. *p.* 536.

u Hunt. *fol.* 219. a. 1. Eadmer. *p.* 95. Flor. Wigorn. *Anno* 1109.

x Johannes Hagulſtad. *col.* 257, 48.

y *Vide* Cook *Inſtit.* 2. *p.* 625.

z *Rot. Parl.* 16. *March* 3. *Hen.* 5. *n.* 11. *Anno* 1414. *Iohn* 23. *Pope.*

a Mat. Paris *Additament. p.* 200. *n.* 6.

b *De cohabitatione Clericorum & Mulierum, cap.* 1. *ad verbum* Beneficiati, *fol.* 64. b.

men ecclesiasticum, & ministrationem sacramentorum & sacramentalium, nec non circa ecclesiasticæ jurisdictionis exercitium, & hujusmodi, quæ jure spiritualia sunt; nec in hoc casu potest sibi prodesse præscriptio etiam longissimi temporis, quia talia spiritualia non possunt per regem possideri, &, per consequens, nec ut transeant sub sua potestate possunt præscribi, nec consuetudine introduci, &c. In which he will have an hard contest with divers *French* and *Italians*, who maintain, c *Che tutte le raggioni che si possono acquistare per dispensa del Papa, si possono acquistar anco per consuetudine, la quale sopravenga contraria alla legge:* that a prince may prescribe for such acts as he can acquire by the Popes dispensation.

c *Considerationi di Padre Paolo Venet.* 1606. *fol* 31. a. *vide* Fulgentio *in difesa d'essi, p.* 312. *& sequent.*

XVII. d Prohibited the Lay yielding obedience, or answering by Oath to their Ecclesiastick superiour inquiring *de peccatis subditorum*: which I take to have been in cases not properly of their cognizance, not of witnesses either in causes Matrimoniall or Testamentary.

d Mat. Paris *Additament. p.* 200, *n.* 9. *& in historia majori p.* 716, 7. *vide* Selden. *de Synedriis part.* 1. *c.* 10. *p.* 383.

XVIII. I shall conclude these particulars with one observation in *Mat. Paris*; where the Ecclesiasticks, having enumerated severall cases in which they held themselves hardly dealt with, adde, e That in all of them, if the spirituall Iudge proceeded contrary to the Kings prohibition, he was attached, &, appearing before the Iustices, constrained to produce his proceedings, that they might determine to which court the cause belonged: and if found to pertain to the secular, the spirituall Iudges were blamed, and, on confession they had proceeded after the prohibition, were amerced; but denying it, were compell'd to make it good by the testimony of two *vile Varlets, but refusing such purgation, were imprisoned, till by oath they freed themselves to the Iustices; that being cleared even by the Lay, they had no satisfaction for their expence and trouble. By which, by the way, it is manifest how much the Kings Courts had the superintendency over the Ecclesiastick.

e Mat. Paris *Additament. p.* 202. *n.* 30.

* *Vilissimi ribaldi.*

18. These,

18. These, and many other particulars of the like nature, daily exerciſed, notwithſtanding the clamour of ſome Eccleſiaſticks, more affecting their own party then the rights of the Crown, make there can be no ſcruple, but the Engliſh did ever underſtand the outward policy of this Church, or government of it *in foro exteriori*, to have much depended on the King; and therefore the writs for ſummoning Parliaments, expreſſe the cauſe of his calling them to be, *pro quibuſdam arduis, urgentibus negotiis, nos, ſtatum, & defenſionem regni noſtri Angliæ & eccleſiæ Anglicanæ concernentibus*, ∴ or, as our Biſhops have ſometimes expreſt it in the Rolls of Parliament, *à l'onour & reverence de Dieu & de ſeinte eſgliſe, & al ſalvation & amendement de ſon roialme*, &c. Likewiſe the Commons, that their gift of the 9th ſheaf, &c. to *Edw.* the 3. to have been for his defence of the Kingdome, *& de ſeinte eſgliſe d' Engleterre*: Rot. Parliament. 15. *Ed.* 3. n. 25. According to which our Kings joyned both together, profeſſing their care for amending the Church to be equall with that of the Commonwealth.

∴ Eveſque d' Exceſtre Chanceller. Rot. Parl. 20. Ric. 2. n. 1.

∴

f *Item fait aſſavoir, que noſtre treſ ſoveraigne ſeignr le Roy, eiantz grande volunte & deſir* de l'eſtate de ſon eſgliſe, *& de ſon Royalme, en les choſes ou meſteir eſt d' amendement, al honor de Dieu, & pur la pees & la commune profit de ſeinte eſgliſe* d' Engleterre, *come de tout ſon Royalme, d'el' advis & aſſent des ſeigrs eſperituells*, &c. *ad fait*, &c. In purſuance of which intereſt reſiding in the Crown, the Lords and Commons under *Rich.* the 2. fearing the opinions called *Lollardy* might prevail, g *petierunt à Rege de iſtis remedium apponi, ne forte archa totius fidei eccleſiæ talibus impulſionibus in illius temporibus, pro defectu gubernaculi, irremediabiliter quateretur.* Upon whoſe deſires, he commanded th' Archbiſhop of *Cant.* and his other Biſhops, *ut officium ſuum ſinguli in ſuis diœceſibus ſecundum jura canonica acrius & ferventius exercerent, delinquentes caſtigarent, libroſque eorum* Anglicos

f Rot. Parl. at Leiceſter 2. Hen. 5. n. 10.

÷

g Hen. Knighton col. 2708. 40. Anno 1387.

glicos *plenius examinarent, errata exterminarent, populumque in unitatem fidei orthodoxæ reducere ſtuderent, eccleſiamque urticis, [&] vepribus defloratam liliis & roſis ornarent*, &c. After which, the ſaid authour records a Commiſſion, by which his Majeſty, as *Defender* of the Catholick Faith, did impower certain to ſeize upon hereticall books, and bring them before his councell: and ſuch as after proclamation ſhall be found to hold ſuch opinions, being called and examined before two Commiſſioners (who were of the Clergy) and lawfully convicted thereof, to be by his Majeſties miniſters committed to the next priſon. ∴ Fourteen years after which, the Commons ſhew *Hen.* the 4th the Parliament might be compared to a Maſſe, in which th' Archbiſhop of *Cant.* began th' office, reading th' Epiſtle and expounding the Goſpel, (which, it ſeems, they took to be the part of the Eccleſiaſtick, as did the *Saxons* before) *& à la meſne qe feuſt la ſacrifice d' eſtre offertz à Dieux pur touz Chriſtiens, le Roy meſmes à ceſt Parlement, pour accomplir celle meſne, pluſieurs foitz avoit declarez pleinement a toutz ſes lieges, coment ſa volunte feuſt, qe la foy de ſeint eſgliſe feuſt governez en maniere come il 'ad eſte en temps de ſes nobles progenitors, & come il eſt affirme par ſeint eſgliſe, par les ſeints Doctours, & par ſeint Eſcriture*, &c. and a little after, ſhewing they the Commons were onely to ſay, *Deo gratias*, which they were obliged to do for three reaſons, the ſecond of which is, *pur ceo qe la ou la Foy de ſeint eſgliſe, par malvaiſe doctrine, feuſt en point d' avoir eſte anientz, en grand ſubverſion du Roy & du Royalme, meſme noſtre Seigr le Roy ent ad fait & ordeignez bon & jouſt remede, en deſtruction de tiel doctrine, & de la ſect d' ycel, peront ilz ſont enſement tenuz de dire cel parole* Deo gratias. By all theſe it muſt be granted, they did hold the chief care of the *Engliſh* Church to have depended (in the outward policy of it) on the prince; or elſe that they did ſpeak and do very unadviſedly in attributing

∴ Rot. Parl. 2. Hen. 4. n. 47.

∴ cap. hoc, n. 6.

∴

buting so much unto his care of it, and providing that he might be supplyed to defend it, without at all mentioning any other to whose care it belonged.

19. Neither did these expressions and petitions passe the Commons onely, or the Clergy over-ruled by the numbers of the temporality; but the Bishops by themselves acknowledged how much it stood in his M^ties^ care to provide against any novelties creeping into the *English* Church, and that it might enjoy the rights and liberties belonging to it: and therefore, when the said doctrine of *Lollardy* continued encreasing, they, in the names *Prælatorum & cleri regni Angliæ*, petition [h] *Henry* the 4th. *Quatenus ----inclitissimorum progenitorum & antecessorum vestrorum laudabilia vestigia gracioſe considerantes, dignetur vestra regia celsitudo pro conservatione dictæ Ecclesiæ* Anglicanæ, *ad Dei laudem, vestrique meritum, & totius regni prædicti prosperitatem & honorem, & pro hujusmodi dissentionibus, divisionibus, dampnis & periculis evitandis, super novitatibus & excessibus prædictis in præsenti Parliamento providere de remedio opportuno* &c. Did not these then hold it the office of the King, as that his progenitors had ever done, to provide, no dissensions, scandalls, divisions might arise in the Church, the Catholick faith might be truely conserved and susteined? and what other did any of our Princes ever challenge or assume?

h *Rot. Parl.* 2. H. 4. n. 48.

20. When the Clergy likewise went at any time beyond their bounds, or were negligent performers of their duties, the subject upon all occasions had recourse unto his M^ty^, as to whose care the seeing what was amiss redrest did especially belong: as [i] when th' Eccleſiastick Courts were grievous for the fees, [k] or their pecuniary pennances too heavy, when they were oppresst by Papall provisions (of which before) when through the absence of their Curat they were not so well taught &c. when the

i *Rot. Parl.* 50. *Ed.* 3. n. 84. 1 R. 2. n. 108.
k *Rot. Parl. Observ. Purif.* 25. *Ed.* 3. n. 35. *Rot. Parl. Observ. Purif.* 25. *Ed.* 3. n. 31.

k Rot. Parl. at Leceſter 2. Hen. 5. pet. des Cões. 5. vide Rot. Parl. 46. Ed. 3. n. 36, 37. n. 41, 42.

the frequency of the writ *de excommunicato capiendo* made it burthenſome, when men were cited by them on cauſes neither Matrimoniall nor Teſtamentary, and appearing were not allowed a copy of the libell againſt them. In which caſe the Kings anſwer is not unworthy the repeating, ſhewing clearly, he directed how they ſhould proceed; *le Roy voet que a quel heure la copie de le libel eſt grantable par la ley, q'il ſoit graunte & liverè a la partie, ſanz difficulte.* It is true, Kings would refer matters of that nature to their Biſhops, unto whoſe care under them it did eſpecially belong: ſo *Richard* the 2. being l petitioned in point of Reſidency, anſwered, *Il appartient aux offices des Eveſques, & le Roy voet qu' ils facent lour office & devoirs* &c. m His ſucceſſor being again preſt in the ſame kind, gives his command thus, *Facent les Ordinaires lour office & devoirs: & per cauſe qe les pluralites q'ont eſte grantees devant ces heures ſont & ount eſte la greindre cauſe de l' abſence des tiels curats, y pleſt au Roy noſtre Seigr. de l' advis & aſſent des Seignrs. en Parlement, eſcrire par ſes honourables lettres a noſtre ſeint pier le Pape, de revoker & repeller toutes les pluralites generalement, & qe d' es ore en avant nulle pluralite ſoit graunte a uſcuny en temps a venir.* But the Pope, it ſeems, giving no ſatisfaction in the particular, the n 11. *Hen.* 4. the Commons again petition, That the riches of the kingdome being in the hands of Church-men, thoſe livings upon which the incumbent of common right ought to reſide, half of the true value ſhould remain to himſelf, but the other to the King. To which the anſwer is, *Geſte matiere appertient a ſeinte Egliſe, & quant a la reſidence, remede ent fuſt purveuz en la darrain Convocation.* Yet this matter of non-reſidence ſtill moleſting the Commonwealth, 3. *Hen.* 6. the King tells them, by th' adviſe of the Lords of Parliament, o *He had delivered their bill to my Lord of* Canterbury, *charging him to pourvey of remedy for his Province, and ſemblably ſhall*

l Rot. Parl. 17. Ric. 2. n. 43.

m Rot. Parl. 7. H. 4. n. 114.

n Rot. Parl. 11 Hen. 4. n. 70.

o Rot. Parl. 3. Hen. 6. n. 37, 38. vide 4. Hen. 6. n. 31.

write

write to the Church of York for that Province. By which we may ſee the King, Archbiſhop, and Convocation did conceive themſelves to have a power of redreſſing things in this Church, which yet in civility they thought fit [p] firſt to acquaint the Pope with, as a ſpirituall Doctor or Patriarch, however of great eſteem, yet not endued with a power of commanding in this Church otherwiſe then the lawes of the Kingdome, the contracts with the Papacy did bear.

[p] *See cap. 3. n. 14, 19.*

21. Now it cannot be doubted that all theſe petitions of the Commons, and ſundry more which may be produced, had been by them vainly prefer'd, had they not taken the King to have been veſted with a power of redreſſing things blameable in the government of the Church. But when we ſay the Prince, as the principall, without whom nothing is done, may be rightly termed *Head* in the act of reformation; our meaning is not, that he will deal in points of Eccleſiaſtick cognizance without the adviſe of his Biſhops, and other learned of the Clergy: we know, in things proper [q] *Ioſuah* is to take counſell of *Eleazer*, and the Kings of this nation have ever done ſo.

[q] *Numbers xxvii. 21.*

22. When *Edgar* intended the advancing *Chriſti gloriam*, he choſe him three Biſhops to be his *patres ſpirituales* and *conſiliarios*. But to ſpeak of later times: [r] when the Commons endeavoured a reformation of ſome things in the Church, *Hen.* the 8th. would not anſwer their deſires, till he had firſt acquainted the Spirituality. When he intended to publiſh a [ſ] book of the *principall articles and points of our faith, with the declaration —— of other expedient points, and alſo for the lawfull rites and ceremonies to be obſerved within this realme, he ordained it to be by th' Archbiſhops and ſundry Biſhops of both Provinces, and alſo a great number of the beſt learned, honeſteſt, and moſt vertuous ſort of Doctors of Divinity, men of diſcretion, judgement, and good diſpoſition*, &c. And *Ed-*

Conc. Spelm *p.* 433.

[r] Hall 23. *Hen.* 8. *fol.* 202. b. 24. *Hen.* 8. *fol.* 205. a. Hegbett *p.* 329. 1538.

[ſ] *Stat.* 32. *H.* 8. *cap.* 26.

ward the sixth minding a farther reformation of some usages in the administration of the Eucharist, he caused it to be [s] made *by the most grave and learned of his realm*, for that purpose by his directions assembled at *Windsor*; who afterwards, [u] *for taking away divers and sundry differing forms and fashions had formerly been used in sundry Churches of* England *and* Wales, *appointed th' Archbishop of* Canterbury, *and certain of the most learned and discreet Bishops, and other learned men of the realm, to consider of the premises, who, by the ayd of the Holy Ghost, with one uniform agreement concluded on and set forth the book of Common prayer* &c. Upon which the two houses of Parliament, *considering as well the most godly travell of the Kings highnesse,* —— *in gathering and collecting the said Archbishops, Bishops and learned men together, as* &c. *do give to his Highnesse most hearty and lowly thanks* &c. So that it is apparent, the King, in composing this book, did not assume to himself, or the Parliament attribute unto him any other then assembling of the Bishops and other learned men together, to take their consultations.

s Fox *Acts and Monuments*, *tom.* 2. *p.* 653. *col.* 1. & *pag.* 659. *col.* 2.

u *Statut.* 2. & 3. *Ed.* 6. *cap.* 1.

23. And they observing the great [x] diversity in saying and singing in severall Churches, the difficulty of finding what was proper for each day, apt to breed confusion, reduced the publick service of the Church to one form more facile and of better edification, following therein the examples of divers holy Bishops and others: for if [y] *Guarinus* Abbot of St *Albans*, in the Office used in his Church about 1190, might *superflua resecare*, to reduce the prayers there to one form, if [z] *Agobardus* in *France* might *amputare superflua vel levia* &c. if [a] *Osmund* Bishop of *Salisbury* in England, *quoniam singulæ fere Diœceses in statis & precariis horis discendis variabant, ad hanc varietatem tollendam, & ut quasi absolutum quoddam precandi, quo omnes uti possent, exemplar exstaret, eas in eum fere ordinem & commodam rationem, quam hodie omnes prope* Angliæ, Cambriæ, & Hiberniæ (viz.

x *Preface to the book of Ed. the* 6. 1549.

y Mat. Paris *vit. Abbat. S. Albani, p.* 101, 17, 19. *p.* 123, 28.

z Agobardi *opera, Paris,* 1605 *p.* 392.

a Harpsfield *Hist Anglican. Eccles. sec.* xi. *cap.* 19 *p.* 251, 48.

(viz. the Course of *Salisbury*) *Ecclesiæ siquuntur, magno & prudenti rerum ex sacris scripturis, & probatis Ecclesiæ historiis delectu, distribuit & digessit*; if these, I say, might do it on their own motion, there is no question, such of the Clergy as were appointed by the King, might on his desire take it into consideration, and remove matters offensive, or lesse to edification.

24. Neither did Queen *Elizabeth* at the beginning of her reign [b] alter some passages in it, but by the opinions of Divines *eruditis & moderatis*; to whom was added a learned Knight *Sr Thomas Smith*, to whose care the supervising of it had by the house of Commons been committed the second of *Edward* the sixth, and therefore knew better then any other to give an account of that book.

b Camden. *Annales Eliz.*

Nor did her self, or the house of Lords use differing wayes, [c] when the Commons at other times have sought some change in the Ecclesiastick government; as the 23. and 27. of her reign, where though the Lord Treasurer made a short beginning, yet he left the satisfactory answers to be given them by th' Archbishop of *York*.

c *Journ. des Cões 23. Eliz. March 3. & 7. & 27. Eliz. Februar. 25.*

Insomuch as we may safely conclude, when the Clergy in Convocation styled *Henry* the 8th *Ecclesiæ Anglicanæ protectorem unicum, & supremum dominum, & quantum per Christi leges licet, supremum caput*, they added nothing new unto him but a title; for he and his successors after it, did never exercise any auctority in causes Ecclesiastick, not warranted by the practise of former Kings of the nation.

By all which the second question remains sufficiently proved, that our Kings were originally endued with auctority to cause the English Church be reformed by th' advice of their Bishops, and other of the Clergy, as agreeing with the practise of all ages. For who introduced the opinion of Transubstantiation? made it an article of Faith? barr'd the Lay of the Cup? Priests of mat-

riage? who restored the Mass in Queen *Maries* dayes before any reconciliation made with *Rome*? but the Ecclesiasticks of this Kingdome under the Prince for the time being, who commanded or connived at it.

CHAP. VI.

How the Kings of England *proceeded in their Separation from* Rome.

1. IT being by what is already said undoubted, the Clergy called together by the Prince, or meeting by his allowance, have ever had a power of reforming this Church, commanding things *juris positivi* in it, and likewise dispensing with them, and that the statute 24. *Hen.* 8. *cap.* 12. that saith in effect as much, is no other then a declaration of the Common law, that is the custome of the realm; the next enquiry will be, for acquitting the Church of *England* in point of schism, how this separation from *Rome* was made.

2. *Henry* the 8th having long pursued a cause Matrimoniall with *Clement* the 7. who shewed so much complyance to determine it in his favour, as he sent Cardinall *Campeius* hither to joyn with *Wolsey* the Kings creature in the businesse, and upon the Emperours successe in *Italy*, the cause, after many delayes, being revoked to *Rome*, the King, upon the opinions of many forreign Divines of the invalidity of his marriage with Queen *Katharine*, caused the case to be determined by the *English* Church: which judgement yet he would have in some measure submitted to the Court of *Rome*, so as he might have given the persons to whom it was delegated by the Pope full information, and the Cardinalls

Cardinalls of the Imperiall faction excluded having any part in the deciſion. But *Clement* hearing what had paſt in *England*, with more then ordinary haſt determins the cauſe againſt him: which how much it would irritate any Prince of ſo great power, and ſo high a ſpirit as our *Henry*, I ſhall leave others to judge. And here I might alledge many forreign examples, of thoſe who upon leſſe indignities have ſtopt all entercourſe with *Rome*, as * *Lewis* the 12. and *Henry* the 2. of *France*, if I had undertook to write an apology for him.

3. The King, upon the advertiſement of theſe proceedings by the Pope, which was at the beginning of the year 1534, falls firſt to thoſe courſes his auncestors had formerly done, when they had occaſion to know how they ought to comport themſelves in any thing towards *Rome*, which was to have the adviſe of the *Engliſh* Church; and thereupon wrote to the Univerſities, great Monaſteries and Churches of the Kingdome, & the 18. *May* 1534. to the Univerſity of *Oxford*, † *requiring them, like men of virtue and profound literature, to diligently intreat, examine, and diſcuſſe a certain queſtion, viz.* An Romanus Epiſcopus habeat majorem aliquam juriſdictionem ſibi collatam in ſacra Scriptura in hoc regno Angliæ, quam alius quivis externus Epiſcopus; *and to return their opinion in writing under their common ſeal, according to the meer and ſincere truth of the ſame*, &c. To which, after mature deliberation, and examination not onely of the places of holy Scripture, but of the beſt interpreters, for many dayes, they returned anſwer the 27. *Iune* 1534. (without all peradventure according to the ancient tenet of the *Engliſh*) Romanum *Epiſcopum majorem aliquam juriſdictionem non habere ſibi à Deo collatam in ſacra Scriptura in hoc regno* Angliæ, *quam alium quemvis externum Epiſcopum*. Of this anſwer I have thought fit to make particular mention, (though aſſented to by all the *Engliſh* Clergy) becauſe *Oxford* hath been ever

* *Whoſe coin is yet extant, having on one ſide his picture, and an inſcription ſhewing him to be King of France and Naples, on the other the armes of France, and theſe words,* Perdam Babylonis nomen. *Thuanus lib. 1. p. 11. c.*

† *In archivis Oxon. ad Annum* 1534. p. 127, &c.

ever [a] held *emulu Parisiensis, Ecclesiæ fundamentum*, [b] *fountain & Mere de nostre foy Chrestiene*, as I formerly touched: whose opinion the *English* Church hath therefore highly esteemed, and sought on all occasions of this nature; of which to give some examples.

[a] Mat. Paris *Anno* 1252. *p.* 859, 3. & *Anno* 1257. *p.* 945, 28.
[b] *Rot. Parl.* 1. *Hen.* 6. *n.* 43.

4. Upon the election of *Vrban* the 6. *France, Scotland, Flanders*, and divers other parts adhering to *Clement*, who resided at *Avignon*, [c] the *French* King 1395. caused a meeting of the Clergy of his dominions, to search whether had the better right to the Papacy: whose judgment was for *Clement*; which under the seal of the University of *Paris* was sent to *Richard* the 2. who thereupon *fecit convocationem* Oxoniæ *de peritioribus Theologis tam regentibus quam non regentibus totius regni*, and they on the contrary judged *Vrban* to have the better title; whose opinion under the seal of the University of *Oxford* returned to the King was by him transmitted into *France*. 1408. [d] *in Concilio Cleri celebrato* Londoniis, *assistentibus doctoribus Vniversitatum* Cantabrigiæ & Oxoniæ, *tractatum est de censu & obedientia Papæ subtrahendis vel non subtrahendis*: about which time twelve of the University of *Oxford*, on the Archbishops desire, in the name of the rest, examined the books & Doctrines of *Wickliffe*, & sent their resolutions to a Synod at *London* in an epistle yet [e] extant. By all which it is manifest, how much their opinions were esteemed in this Kingdome. And I hold it undoubted, a Prince following so great advise, chalked out to him by the practise of his ancestors, could not be guilty of so heinous a crime as schism, arising onely from disobedience to any spirituall superior whatsoever.

[c] Hen. Knighton *col.* 2671, 24. *col.* 2742, 23.
[d] Walsing. *Hist. Anno* 1408. *p.* 420, 1.
[e] *In fasciculo zizaniorum Ms. in bibliotheca Archiepiscopi Armachani.*

[f] *Gerson* sayes, a private person runs into no contempt of the Keyes in divers cases by him enumerated; as one, *dum dicit aliquis juristarum vel theologorum juxta conscientiam suam, quod hujusmodi sententiæ non sunt timendæ vel tenendæ, & hoc præsertim si observetur informatio seu cautela debita, ne sequatur scandalum pusillorum, qui æstimant*

[f] *Circa materiam excommunicationum resolutio, considerat.* 11. *to.* 2. *col.* 349. *a. Ed. Paris* 1606.

mant Papam esse unum Deum: And *Navar*, the greatest Canonist of his time, g *qui unius doctoris eruditione ac animi pietate celebris auctoritate ductus fecerit, aliquid excusatur, etiamsi forte id non esset justum, & alii contrarium tenerent.* And to this purpose many more Doctors may be alledged.

g Navar. cap. cum contingat de Rescript. renued. 2. n. 30. to. 2. editionis Colon. Anno 1616. p. 59. col. 1. §. nono.

5. This as it was done by him, so he was led unto it ÷ by the example of his predecessors, as I have partly toucht before; and shall therefore alledge no other, but that in the disputes between *Becket* and *Henry* the 2. the Archbishop endeavouring to interesse *Alexander* the 3. in the difference, that Prince h caused it to be written unto him, *Si juri vestro vel honori præjudicatur in aliquo, id se totius Ecclesiæ regni sui consilio correcturum in proximo pollicetur:* and a little after, i *Dominus Rex plurimum sibi justificare videtur, cum in omnibus quæ dicta sunt, Ecclesiæ regni sui consilio simul & judicio se pariturum pollicetur.* And this the often repeating of it, not onely in a particular letter of the Bishop of *London*, but of all the Bishops of the Province of *Canterbury*, both to the k Pope and *Becket*, enough assure us ÷ how undoubted it was in those dayes, that our Kings following the advise of the *English* Church, did proceed on safe grounds for their justification in such quarrells.

h Hoveden Anno 1166. fol. 287. b. 43.

i Ibid. fol. 288. c.

k *Apud* Hovedenfol. 292. b. 11. 49. 293. a. 33.

6. Neither was the opinion returned by these Divines ÷ so differing from the writings of other learned men, as might make them any way guilty of schism. l *Gerson* speaking of the severall degrees of Divine truths, places for the first such as are expresse in Scripture, secondly those that are by evident consequence deduced from thence, thirdly such as being delivered by *Christ*, have been by the constant tradition of the Church derived to us, of which he holds this proposition, *Universalis Ecclesia Pontifici Romano subjecta sit*; and adds, *non enim posset evidenter aut per consequentiam pure de fide ex legibus primi generis humana deductione fulciri, &c.* and

l Gerson *de vita spirituali animæ corol.* 7. to. 3. col. 183. b. c.

∴ Cont. *de potestate Pontificis ad* Nicholaum Teupolum.

∴ *Contarenus*, in a small tract *de potestate Pontificis*, of that question sayes, *An Auctoritas illa & potestas, qua Pontifex maximus fungitur, sit ei consensu quodam hominis tributa, an potius divinitus tradita; qua de re hisce temporibus maximos tumultus excitatos esse perspicimus, nec etiam veriti sint viri in omni disciplinarum genere celebres, ac in Christianæ Theologiæ studio illustres, in magno hominum conventu asserere, hoc jus Pontificis humanum esse*; & then adds that he *ab horum hominum sententia maxime dissentire, ac* prope *compertum habere, divinitus concessum esse Pontifici jus illud* &c. So that this learned Cardinall was not altogether resolved in the point, but as a disputable question had it *prope compertum*. The truth of which I leave him to dispute with the Orientall Christians. It is manifest, [m] *Francis* the first was of the contrary judgement; and our Countryman [n] *Stapleton* delivers it as a Catholick *tenet* of former times, (undoubtedly agreeing with that of the *English* Church) *non divino, sed humano jure, & positivis ecclesiæ decretis primatum* Romani *Pontificis niti* &c.

m Sleidan *lib.* 9. *prope finem.* n Staplet. *de principiis fidei lib.* 13. *cap.* 15. §. Dixeram.

7. But I return to our *King, who now fortifyed by the opinion of the Universities, publick disputations in the convocation, and severall precedents of former Princes his predecessors, in his rights, whereas the Parliament before in some particulars restrained the profits of *Rome*, as in the payments of *Annates*, *Peter-pence*, making *Appeals* to it, whose beginnings with us I have formerly noted, did [o] the 26. *Hen.* 8. 1533, declare *his May, his heirs and successors, Kings of this realm, (shall have full power & auctority from tyme to tyme to visit, represse, redresse,* &c. *all such errors, heresies, abuses,* &c. *which by any manner spirituall authority or jurisdiction may be lawfully reformed, repressed, ordered, redressed,* &c. This the Court of *Rome* interpreted a falling off from the Church, and the *English* no other then a declaration of that right had ever resided in the Crown, and which I believe it will be a difficult task to disprove them in.

* *Hen the* viii.

o *Stat.* 26. *Hen.* 8. *cap.* 1. *begun the* 3. *November and ended the* 18. *December* 1533.

8. For

8. For those two articles [p] *Paulus* 3. accuses the King of, as Hereticall and schismaticall, viz. *quod* Romanus *Pontifex caput ecclesiæ &* Christi *vicarius non erat, & quod ipse in* Anglica *ecclesia supremum caput existebat* &c. for the first, I never heard it affirmed by the King in that generality the words import; for the Pope is a temporall prince, as well as a spirituall father; and so far as I know he never denyed him to be the head of the Church of his own dominions, nor of *France* and *Spain* &c. if those Kingdomes will admit him to so great a preeminence: the thing he onely stood upon is, that he was not so instituted by Christ Universall Bishop, and had alone from him such an omnipotency of power, as made him absolute Monarch in effect of the universall Church, and was so in *England*. For his being vicar of *Christ* in that sense other Bishops may be said to be his vicegerents, (as [q] before) I do not see how it can be well denyed him; but that this Vicarship did import the giving him that power he did then exercise here, is what the Church of *England* hath ever constantly denied. As for the Kings being Head of the Church, I have before shewed he neither took it, nor the Parliament gave it, in other sense then the *French* have alwayes attributed it to their Princes: neither for ought I find was it so much sought by King *Henry*, as prest on him by the Clergy, of which the Bishop of *Rochester* was one that subscribed to it; and his Ancestors did the same things before, he did after, under the names of *Protectors, Tutors, ∴ Christi vicarii, Domini Agricolæ*, &c.

[p] *Bulla Pauli 3. in Bullar. o dat. 17. Ianuar. 1538.*

[q] *Cap. 3. n. 72, pag. 64.*

∴ *Concil. Spelm. p. 437. cap. 7, 8. Seld. notis ad Eadmer. p. 175. 176.*

9. For the other particulars mentioned in the Bull, as his beheading the Bishop or Cardinall of *Rochester*, the burning of *Beckets* bones, the taking the treasure and ornaments at his Shrine, to which may be added the suppressing, and converting into Lay hands the Monasteries of the Kingdome, I shall not say much, having not taken on me to defend that Princes actions. Yet for the

taking off the head of *Rochester* (if he were convict of treason) I must give the answer [r] of *Edward* the 3. to the Clergy in that kind, *en droict de Clerks convictz de treason; purceo qe le Roy, & toutz ſes progenitors ount eſte ſeiſis tut temps de faire jugement & execution de Clercz convictz de treſon devers le Roy & ſa Royale Mageſte, come de droict de la corone, ſi eſt avis au Roy, qe la ley en tien cas ne ſe poet changer:* and then he cannot be ſaid to have dyed otherwiſe then by law. As for the goods and ornaments of Churches by him layd hold on, it is certain, his predeceſſors in their extremities had ſhew'd him the way; as the [ſ] Conquerour, who took all the ready money was found in Religious houſes; [t] *Richard* the firſt, who took all, to the very Chalices of Churches, and yet th' Archbiſhop afterwards [u] *regio munimine ſeptus —— univerſos monachorum* (to wit, *of Christ Church*) *reddidit & oblationes tumbæ beati martyris* Thomæ *fecit ſaiſiari in manu Regis*; [x] and *Edward* the firſt 1296, *fecit omnia regni monaſteria perſcrutari, & pecuniam inventam* Londonias *apportari, fecitque lanas & corias arreſtari*, &c. And in thoſe dayes Biſhops did tell Kings, [y] *Theſaurus eccleſiæ veſter eſt, nec abſque veſtra conſcientia debuit amoveri*: to which the King, *verum eſt, Theſaurus noſter eſt ad defenſionem terræ contra hoſtes peregrinos* &c. And perhaps it would be no hard labour to ſhew, all Princes, not onely here, but elſewhere, to have had (how juſtly I will not determine) a like perſuaſion. And he then being excommunicated by *Paulus* 3. for maintaining what the Crown had ever been in poſſeſſion of, can no way be ſaid to have departed from the Church; but the Pope to have injuriouſly proceeded againſt him, who maintained onely the juſt rights and liberties of his kingdome, according to his coronation oath.

10. And this is the caſe, and fully anſwers (ſo far as it appears to me) whatſoever can be objected againſt the reformation begun by him, or made more perfect by *Edward*

r Rot. Parl. ſeſſ. 8. Hillair 25. Ed. 3. n. 60. petitions de Clergy.

ſ Flor. Wigorn. *Anno* 1070.

t Neubrigenſis *lib.* 4. *cap.* 38.

u Hoveden. *Anno* 1198. *fol.* 444. a 8.

x Walſingh. *anno* 1296. *p.* 29, 24.

y Gervas. Dorobern. *col.* 1554. 44.

Edward the 6. for the manner of doing it, viz. *that they, as ſupreme Princes of this Kingdome, had a right to call together their own Clergy, and with their adviſe, to ſee the Church reformed by them.* And if otherwiſe, I ſhould deſire to know how the *Maſſe* without any intermiſſion was reſtored by Queen *Mary*: for it is manifeſt, ſhe returned the uſe of it immediately after her brothers death, & yet Cardinall *Pool* reconciled not this Kingdome to *Rome* till the 30th of *November* above a year after, and then too *on ſuch conditions onely as the Parliament approved; during which ſpace, ſhe as Queen gave [a] directions to the Ordinaries how they ſhould carry themſelves in ſeverall particulars; which as it is probable ſhe did by th'advice of her Biſhops, ſo there is no reaſon to condemn the like proceedings in *Edward* the 6.

* *Stat.* 1. 2. *P. & Mar. cap.* 8.

a *See* Fox, *vol.* 3. *p.* 38.

11. I have before ſhewed how far the royal power went in compiling the book of Common prayer: for a Catechiſm publiſhed by the ſame Prince, it being compoſed by a learned perſon, preſented to his Maty, and by him committed to the ſcrutiny of certain Biſhops and other learned men, *quorum judicium* (ſayes [b] his Maty) *magnam apud nos authoritatem habet*, after their allowance it was by him recommended to be publickly taught in Schools. Likewiſe the Articles for taking away diverſity of opinions in points of religion, were agreed upon in a Synod at *London* by the Biſhops and other learned men, *& Regia authoritate in lucem editi.* The King in framing them taking no farther on himſelf, then he had in the book of Common prayer. And Queen *Mary*, though ſhe quitted the title of *head of the Church* (which yet ſhe did not ſo ſuddenly as *Saunders* intimates) did in effect as much. So that hitherto there is no way of fixing any ſchiſm on the *Engliſh* Church, for neglect of obedience, it having been ever ſubject to the Archbiſhop of *Canterbury* and others its lawfull ſuperiors, reſtoring to him the ancient right belonged to his chair, of being

b *Litera ante Catechiſmum directa omnibus Ludimagiſtris, & iis qui ſcholas grammaticas aperiunt, dat.* 20. *Maii anno regni* 7.

[c] *Cap. 3. n. 80.* their spirituall pastor [c] next and immediately under *Christ Iesus*. But the Kingdome being re-united to the See of *Rome* by Queen *Mary*, though what I have said doth in a good part free it of schism, yet in respect the reformation I onely took upon me to defend was made by Queen *Elizabeth*, and continued since, it will be necessary to make some more particular mention how it did passe.

Chap. VII.

How the reformation was made under Queen Elizabeth.

1. *Elizabeth*, the daughter of *Henry* the 8th by Queen *Anne Bolen*, being received by all the estates of the Kingdome, (assembled in Parliament) and proclaimed Queen, caused her sisters Ambassador, *Sr Edward Kerne*, then residing at *Rome*, to give an account of this her being called to the Crown to *Paulus* 4tus the Pope; who being in union with *France*, and out with the house of *Austria* then strictly joyned with *England*, and both at odds with the *French*, told him, either perswaded by them, or upon his own heady disposition, [a] England *was a Fee of the Church of* Rome; *That she could not succeed, as illegitimate; That he could not go against the declarations of* Clement *the 7. and* Paulus 3ius; *That her assuming the name and government without him, was so great an audacity, she deserved not to be hearkned to: But he being willing to proceed paternally, if she would renounce her pretensions, and freely remit her self to his arbitrement, he would do what lay in his power with the dignity of the Apostolick See.* A strange reply to a civil message, were it not derived to us by an unquestionable hand, and that it came from

[a] *Hist. Councel of Trent Ital. lib. 5. Anno 1558. p. 399. edit. Lond. 1619. & Geneva p. 420.*

from *Paulus* 4^tus, to whom it was not an unuſuall ſaying, [b] *that hee would have no Prince his compagnion, but all ſubjects under hys foot.* Upon this unwillingneſſe to acknowledge her Queen at *Rome*, th' Archbiſhop of *York* (who had before [c] affirmed no man could doubt of the juſtneſſe of her title) and the reſt of the Biſhops refuſed to Crown her. As for that [d] ſome write, *it was becauſe they had evident probabilities ſhe intended eyther not to take, or not to keep the oath was then to be adminiſtred unto her, eſpecially in the particular of not maintaining holy Churches lawes, in reſpect ſhe had ſhewed an averſeneſſe to ſome ceremonies, as commanding the Biſh. of* Carlile *not to elevate the conſecrated Hoſt, (who ſtoutly refuſed her) and out of fear ſhe would refuſe in the time of her ſacre the ſolemn divine ceremony of Vnction*; theſe are certainly without any colour, and framed ſince. For as for the laſt, the ceremony of anointing, ſhe had it performed; as had King *James* who ſucceeded her, who [e] would not have his Queen crowned in *Scotland* without it. For the other, it is altogether improbable that he to whom the command was by her given, would of all the reſt have aſſented to crown her, had he conceived that a cauſe why it might have been denied: neither indeed did ſhe alter any thing materiall in the ſervice of the Church, till after the conference at *Weſtminſter* 1559. the 31. *March*, and the Parliament ended.

b *Ibid. paulo ante eodem libro.*

c *His ſpeech at the making known Queen Maries death to the Commons, in* Camden, Holinſhead, Grafton, & aliis

d *The defence of the Catholicks againſt the book ſtyled* The Execution of Juſtice in England, *pag.* 51.

e *See* Spotswood's *Hiſtory of the Church of Scotland, p.* 381.

2. To paſſe therefore by theſe, as excuſes found out after the deed done, the true reaſon being (no queſtion) ſomething came from the Pope, in purſuance of that anſwer he had given her Agent; the Queen ſeeing ſhe could expect nothing from the Papacy, laboured to make all ſafe at home, or, to uſe her own phraſe, *to take care of her own houſe*; and therefore (as ſhe had reaſon) deſired to be aſſured of her ſubjects fidelity, by propounding an oath to certain of them, (which is ſeldome a tie to other then honeſt minds.) But the way (mens minds diſtracted

distracted in points of religion, the *f* law of *Henry* the 8. (extinguishing the auctority of the Bishop of *Rome*) being very severe, for securing himself, in bringing such as did but extoll the said auctority, for the first offence, within the compass of a *præmunire*, and that refused to take it, of treason,) was not easy to be pitcht upon: besides styling the King *head of the Church*, which many made a scruple at; to *g* which effect a bill being presented to the house of Commons the 9. of *February*, after many arguments had upon it, the 13. of *February* upon the second reading it was absolutely dasht, and upon great consideration taken the 14. *Febr.* a Committee appointed to draw a new Bill, in which an especiall care was taken for restoring onely the ancient jurisdiction of the Crown, and the Queen neither styled *supreme Head*, nor the penalty of refusing the Oath other, then the being excluded from such places of honour and profit as they held in the Common-wealth: yet with this *proviso*, that he who had an estate of inheritance in a temporall Office, & refused to take the said oath, did after upon better perswasion conform himself, should be restored unto the said estate; and that such as should maintain or defend the auctority, preeminence, power or jurisdiction, spirituall or ecclesiasticall, of any forreign Prince, Prelate, Person, State or Potentate whatsoever (not naming the Pope, as her father had done) should be three times convict before he suffered the pains of death.

f Stat. 28. Hen. the 8. cap. 10.

g Journ. des Cōes 1. Eliz.

3. This Bill, which no doubt the Popes carriage drew on, being expedited in the house of Commons, received reformation by the Lords, committed the 13. *March* to the Lord Marques of *Wincheſter*, Lord Treasurer, the Duke of *Norfolk*, the Earls of *Westmorland*, *Shrewsbury*, *Rutland*, *Sussex*, *Penbrook*, viscount *Mountague*; Bishops, *Exeter*, *Carliſle*; Barons, *Clynton* Admirall, *Morley*, *Rich*, *Willoughby*, *North*, no one of them then noted for Protestantisme; the 18. *March* past the Lords, none dissenting but

but 8. Biſhops, the Earl of *Shrewsbury*, Viſcount *Mountague*, and the Abbot of *Weſtminſter*: and the ſame day ſent to the houſe of Commons, who upon peruſall found again what to amend it in; ſo as it had not it's perfection in both Houſes till Saturday the 6th of *May* (when the Parliament ended the Monday following) at which time onely Viſcount *Mountague* & the intereſſed Clergy oppoſed it. By which it cannot be queſtioned, but the generality of the Lords did interpret that law, no other then, as indeed it was, a reſtoring the Crown to it's ancient rights; for if otherwiſe, without doubt there would have been as great an oppoſition at leaſt made againſt it, as ſome other ſtatutes which paſt that Parliament met with, that the Marqueſs of *Winchester*, the Lords *Morley*, *Stafford*, *Dudley*, *Wharton*, *Rich*, *North*, joyned with the Earls of *Shrewsbury*, Viſcount *Mountague*, and the Prelats, to have ſtopt. *l*.

4. But whereas ſome were induced to think by the generality of the words, that affirm her Highneſs to be *ſupreme governour as well in all ſpirituall or eccleſiaſticall cauſes as temporall*, as if it had been an uſurping upon the ſacred function in the interior (as I may ſay) of the Church, properly belonging to them in holy Orders, her Maty the ſame year [b] did declare, *She did not challenge any other auctority then was challenged and lately uſed by King* Henry *the* 8th *and* Edw. 6. *which is, and was of ancient time due to th' imperiall crown of this Realme; that is, under God to have the Soveraignty and rule over all manner of perſons born within theſe her realms*, &c. And that to be the onely ſenſe of the Oath ſhe cauſed to be confirmed the next [i] Parliament; at which time a Synod being held, *for avoiding diverſity of opinions, and eſtabliſhing of conſent touching true religion* &c. it did expreſly declare, [k] they did not give to our Princes the miniſtring either of Gods Word or the Sacraments, —— *But that onely prerogative is given in holy Scripture by God himſelf, that*

h *The Admonition in* Injunctions 1 *Eliz.*

i 5 *Eliz. cap.* 1.

k *Art.* 37.

is, that they ſhould rule all eſtates and degrees committed to their charge by God, whether they be eccleſiaſticall or temporall, and reſtrain with the civill ſword the ſtubborn and evil-doers, &c. And theſe articles were likewiſe confirmed by Parliament 13. *Eliz.* cap. 12. ſo that no man can doubt this to have been other then an acknowledgement, what Princes had done formerly in all ages might be juſtly continued; not an introductory of a new law, but the aſſertion of the old right of our Kings.

5. Another matter of great weight then likewiſe expedited was, the ſettling the publick ſervice of the Church in one uniform way. King *Edward* the 6. intending ſuch a reformation as might ſerve for edification, cauſed certain pious and learned men to meet together, who (as it ſeems) taking for their pattern the practiſe of the primitive times, caſting out of the Liturgies then uſed ſuch particulars as were any way offenſive, ſhew'd their ſcope to be, what they pretended, to reform, not make a new Church or Service; and thereupon had, *by the aid of the holy Ghoſt*, (as the Act of Parliament ſpeaks) concluded on, and publiſht the *book of Common prayer*, with a form of *adminiſtration of the holy Communion, commonly called the Maſs*. But nothing humane is perfect at firſt: this Book ſome few years after received in his time alteration, and the word *Maſs* (I know not why more offenſive in it then the [m] *Auguſtane* Confeſſion) expunged, with ſome other phraſes in it.

1 Stat. 2. & 3. Ed. 6. cap. 1.

m *Cap. de Miſſa. Retinetur Miſſa apud nos, & ſumma reverentia celebratur.*

6. But for the better underſtanding how Queen *Elizabeth* found this Church, it will not be amiſs to look a little back. *Henry* the 8. dying in *January* 154$\frac{6}{7}$, leaving the *Roman* Service, with ſome alterations not greatly conſiderable in it, the wiſdome of the State (however intending a farther reformation) was not immediately to aboliſh it; ſo as the Lords meeting in Parl[nt]. 1547. *November* the 4. though they had the Maſs ſung in *Engliſh*, yet the Liturgy of the Church was not common in that language

language till after *Easter* 1548. This Session continuing till *December* 23. restored the Communion in both kinds, upon which certain learned men by appointment met at *Windsor*, to consider of a decent Form for the administration of it; which in *March* his Maty gave out backt with a Proclamation, so as at *Easter* it began (without compulsion of any,) to be put in practise, and after *Easter*, severall parochiall Churches to celebrate divine Service in *English*, which at *Whitsuntide* was by command introduced into *Paul's*; but hitherto no book of Common prayer extant, onely the manner of administring the holy Eucharist somewhat altered.

7. During this while, the Archbishop of *Cant.* 6. Bishops, 3. Deans Doctors, and 3. other onely Doctors, were busied in reforming the publick Liturgy of the Church. *Iohn Calvin* of *Geneva*, a person then of high esteem, advertised of it, thereupon wrote to the Duke of *Somerset* the 22. *October* 1548, giving his judgement in these [a] words [*quod ad formulam precum & rituum ecclesiasticorum, valde probo ut certa illa extet, à qua pastoribus discedere in functione sua non liceat, tam ut consulatur quorundam simplicitati & imperitiæ, quam ut certius ita constet omnium inter se ecclesiarum consensus, postremo etiam ut obviam eatur desultoriæ quorundam levitati qui novationes quasdam affectant.*] and taking notice of the form already had for celebrating the Communion, adds this, *Audio recitari isthic in Cœnæ celebratione orationem pro defunctis, neque vero hoc ad purgatorii Papistici approbationem referri satis scio, neque etiam me latet proferri posse antiquum ritum mentionis defunctorum faciendæ, ut eo modo communio fidelium omnium in unum corpus conjunctorum declaretur; sed obstat invictum illud argumentum, nempe Cœnam Domini adeo sacrosanctam esse, ut ullis hominum additamentis eam conspurcare sit nefas.*

[a] Iohan. Calvin. *Epist.* 87.

8. This Letter received about the * beginning of the Parliament,

* Note, the printed book of Statutes is, as if their meeting were the 4. November: which I conceive erroneous, as not at all agreeing with the Journall.

Parliament, which met the 24. of *November* 1548. may have been the cause of deferring th' exhibition of it to the House of Commons till the 19. *December* 1548. when the consideration of it was referred to *Sr Thomas Smith*, his Matties Secretary, and a very learned Knight, who returned it back again the 19. *January*, having kept it by him a full moneth; after which it was expedited and printed in *March* following, and the 6th of *April* 1549. the Mass by Proclamation removed. But this book was not so perfect, as it yielded no exceptions, whether just or not I shall not hear examine, I know learned men have judged variously: it shall suffice me to say, it was again revised by *Bucer* (a great patron of Discipline, and Martyr, both in *England*,) and reprinted 1552. and to ought in or of this second edition during King *Edwards* reign I have not heard any Protestant did ever except.

9. In Queen *Maries* time divers learned men retired from the heat of Persecution, and by the favour of the Magistrate permitted a Church 1554. at *Frankford*, laboured to retain this Liturgy; whom *Knox*, *Whittingham*, and some others opposed so far, as one *Haddon* desired to be their Pastor, excused himself, and Mr. *Chambers* coming for that end from *Zurick*, finding it would not be allowed, retired back again, and xvi. learned men then at *Strasburgh* (amongst which this *Haddon*, *Sandis* afterward Archbishop of *York*, *Grindall* of *Canterbury*, *Christopher Goodman* famous for his book of Obedience) remonstrated unto them, *That by much altering the said book they should seem to condemn the framers, now ready with the price of their bloud to confirm it, should give their adversaries occasion to accuse their doctrine of imperfection, themselves of mutability, and the Godly to doubt of what they had been perswaded; that the use of it permitted they would joyn with them by the first of* February: their Letter bearing date the 23. of *November* 1554.

Troubles at Frankford p. xxii.

10. But nothing could move them to be like Saint *Paul*,

Paul, all things to all that he might gain ſome, or relent any thing of their former rigour; onely a Type of it drawn into Latine was ſent to *Calvin* for his judgement, who returned an anſwer the 18. *Ianuary* 1557. ſomewhat reſembling the *Delphick* oracles, *That the book did not contein the purity was to be wiſht; that there were in it* ineptias, *yet* tolerabiles; *that as he would not have them be* ultra modum rigidos, *ſo he did admoniſh others* ne ſibi in ſua inſcitia nimis placeant, *&c.* And here I cannot deny to have ſometime wondred, why in theſe diſputes the opinion of *Peter Martyr*, then at *Strasburgh*, a perſon for learning no leſſe eminent, was never required: but I have ſince heard him to have been alwayes a profeſt patron of it, as one by whoſe care and privity it had been reformed.

1 *Corinth.* ix. 22.

Epiſt. 200.

11. Whilſt matters went thus in *Germany*, certain learned men at *Geneva* were compoſing a Form for the uſe of the *Engliſh* Church there, which 1556. was printed by *Criſpin*, with this title,

Ratio & forma publice orandi Deum atque adminiſtrandi Sacramenta &c. *in Anglorum eccleſiam, quæ Genevæ colligitur, recepta, cum judicio & comprobatione D.* Iohannis Calvini.

But this did not ſatisfy all, for Mr. *Lever* coming to *Frankford* to be their Miniſter, requeſted they would truſt him to uſe ſuch an order as ſhould be godly, yet without any reſpect to the book of *Geneva* or any other. But his endeavours were ſoon rejected, as not fit for a right reformed Church, and the book it ſelf hath received ſince ſundry changes from that firſt type.

12. In this poſture Queen *Elizabeth* found the Church, the Proteſtant party abroad oppoſing the book of Common prayer, few, varying in judgement, not at unity with themſelves, nor well agreeing what they would ſubmit unto: She hereupon cauſed it to be again reviſed by certain moderate and learned men, who took a great

great care for removing all things really lyable to exception; and therefore where *Henry* the 8. had cauſed to be inſerted into the Letany, *to be delivered from the Tyranny of the Biſhop of Rome & all his deteſtable enormities*, which remained all King *Edwards* time, this, as what might give offence to that party, was thought fit to be ſtrook out; and where in the delivery of the Euchariſt the firſt book of *Ed.* the 6. had onely this clauſe, * *The body of our Lord* Jeſus Chriſt *which was given for thee preſerve thy body and ſoul unto everlaſting life*, and at the giving of the Cup no other then *The bloud of our Lord* Ieſus Chriſt *which was ſhed for thee preſerve thy body and ſoul unto everlaſting life*, and the ſecond book which was in force at his death had removed thoſe two clauſes, and inſtead of them inſerted *Take and eat this in remembrance that* Chriſt *dyed for thee, and feed on him in thy heart by faith with thankſgiving*, and accordingly at the delivery of the Cup, from whence ſome might, and perhaps did infer the faithfull Receiver not to have a real communication of Chriſts body, in taking the Sacrament, but onely a remembrance of his ſufferings; it was now thought fit both expreſſions ſhould be retained, that no man might have any juſt cauſe of ſcandall: for be *Chriſts* preſence never ſo reall, even by *Tranſubſtantiation*, in the holy Sacrament, we may upon • Saint *Pauls* warrant do it in remembrance of him.

* The firſt book of Ed. 6. fol. 130. b.

• 1 Cor. xi. 24, 25.

Thus at the firſt of her reign matters in religion paſt with ſo great moderation, as it is not to be denyed very few, or none, of the *Romiſh* inclination (if they did at any time go to Maſs,) refuſed to be preſent in our Churches during the time of Divine Service.

But of another thing that likewiſe paſt at the ſame time, it will be neceſſary to make ſome more particular mention.

CHAP.

CHAP. VIII.

How Queen Elizabeth *ſettled in this Kingdome the proceeding againſt Hereticks.*

1 ANother particular, no ſmall argument of the Queens diſpoſition, fell into conſideration this Parliament. Her [a] Siſter had revived all the laws of former Princes againſt Hereticks, even that [b] of *Hen.* the 4. which her Father had on weighty conſiderations repealed, and all proceedings againſt them, till they came to their very execution, pertaining to the Eccleſiaſtick: how to find a means to preſerve her ſubjects, and yet not leave a licenſe to every old hereſy, new invention, fanatick ſpirit, to ruffle the Church and trouble the world, was a matter of no ſmall difficulty. But for the better underſtanding of what then paſt, it will be requiſite to conſider, how the condemning of Hereſy and proceeding againſt Hereticks hath been, both here and elſewhere, how her Maty found it abroad in the Chriſtian world, and at home, how thereupon ſhe ſettled it.

a 1. 2. *P. M. cap.* 6.

b 2. *Hen.* 4. *cap.* 15. *repealed* 25. *H.* 8. *cap.* 14.

2. The words *Hereſy* and *Heretick* were in the primitive Church not alwayes of ſo ill a ſound as theſe later Ages have made them. [c] *St Auguſtine* doth name ſome opinions for hereticall have ſmall affinity with Divinity; and who ſhall read [d] *Philaſtrius* of Hereſies, muſt needs approve [e] Cardinall *Bellarmin*'s cenſure of him, that he accounts amongſt them many are not properly Hereſies, as the word is now taken. The firſt Councell ∴ of *Conſtantinople* held 381. expreſly affirms by the name of Heretick to underſtand ſuch as profeſſing the ſame faith, yet did make a ſeparation from thoſe

c *De Hereſi cap.* 63.

d *To.* 4. *bibliothec. patrum cap.* 54. 82.

e *De Scriptoribus.*

∴ *Concil. Gen. Rom. to.* 1. *p.* 33. *cap.* 6.

those canonicall Bishops were of their communion. But the construction what opinion was hereticall, did ever, so far as I have observed, belong to the spirituall Magistrate, who, after the pattern held out in *f* holy Writ, if any new erroneous opinion did peep, the neighbour Bishops and Clergy taking notice of it, did assemble, condemn it, and by their letters gave notice of what had past them to absent Churches: if the case were difficult, the presence of any famous Clerk was desired, who for settling peace (as who would not?) was easily drawn out of his own home; so was *g Origen* sent for into *Arabia*. And that this form continued in condemning Heresy till *Constantine*, seems to be very plain by the *h* proceedings against *Paulus Samosatenus* and divers others, remaining yet in history, and the writings of the fathers. But for the prosecution of an Heretick farther then to avoid him, I know no example, till after God having given peace to his people under Christian Emperours, they *i* finding, if the Church were in trouble, the State to be seldome otherwise, did provide as well for the calling of Bishops to Councells that might condemn Heresies, as by lawes to punish Hereticks.

f Acts xv.

g Euseb. *lib.* 6. *cap.* 25. *al.* 30.

h Euseb. *lib.* 7. *cap.* 25. *&c. alia cap.* 1. *al. cap.* 22, 23, 24.

i Euseb. *lib.* 10. *cap.* 7. Socrat. *proem. lib.* 5. *vide epist. Theodosii Cyrillo apud* Baron. *to.* 5. *Anno* 430. *n.* 64.

3. The Councell of *Nice* therefore having in the year 325. censured the opinions of *Arius* for hereticall, the Emperour that had formerly granted priviledges to Christians 326, declared *k haereticos atque schismaticos his privilegiis alienos* &c. and that no man might be deceived by the ambiguity of the word *Heretick*, *l Gratian* and *Theodosius* in the year 380. did declare who onely were to be so reputed, *viz.* all who *secundum Apostolicam disciplinam evangelicamque doctrinam patris & filii & spiritus sancti unam deitatem sub parili majestate & sub pia trinitate credimus, hanc legem sequentes, Christianorum Catholicorum nomen jubemus amplecti, reliquos vero dementes vesanosque judicantes haeretici dogmatis infamiam sustinere:* and the year following did not onely

k Codex Theodos. lib. 16. de Haereticis leg. 1. *Vide* Euseb. *de vita* Constantini *cap.* 61, 62. *lib.* 3.

l Cod. Theod. lib. 16. de Fide Catholica *leg.* 2.

in

in *January* [m] renew the said Edict, but in *July* [n] commanded all Churches to be delivered those Bishops who held that profession, *nihil dissonum profana divisione facientes, sed Trinitatis ordinem, personarum adsertionem, divinitatis ordinem* &c. and for the more assurance, as a mark of their being orthodox, ∴ did hold communion with the Catholick Bishops of any one seat there remembred, as *Damasius* of *Rome*, *Nectarius* of *Constantinople*, *Pelagius* of *Laodicea*, *Diodorus* of *Tarsus*, *Optimus* of *Antioch*, &c. *omnes autem qui ab eorum quos commemoratio specialis expressit fide communionis dissentiunt, ut manifestos hæreticos ab ecclesiis expelli.* Which note [o] *Justinian* likewise in the year 541. having prescribed, goes farther, that *sacram communionem in Catholica ecclesia non percipientes à Deo amabilibus sacerdotibus, hæreticos juste vocamus.*

m *Ibid.* de Hæretic. *leg.* 6.

n *Ibid.* de fide Catholica *leg.* 3 & 2.

∴ *Ibid. leg.* 2, 3. *Annis* 380, 381. & *ibid.* de his qui religione contendunt, *leg.* 6.

o *Novel. Constit.* 109. *in præfat.*

4. Before these laws, it is not to be wondred if every one desired to be joyned in communion with some one of those seats, whose Bishops were so recommended, for conserving the Apostolick faith, for the sanctity of their manners, and for keeping schism out of the Church; which being usually joyned with sedition in the Common-wealth, [p] Princes seem to have an especiall eye how it might be avoided, but after these Edicts they certainly did it much more: and there being in the world no Bishop more famous then the *Roman*, nor any other named in these parts of *Europe* then he, every one endeavoured to live united to that Church, whose form the Councell of *Nice* 325. (for before that, ∴ *ad Romanam ecclesiam parvus habebatur respectus*, as *Pius secundus* writes) approving in distribution of the ecclesiastick government, and Emperours now in point of belief, the *Roman* Chair became so eminent, as, for to shew themselves orthodox, many, especially of the *Latins*, did hold it enough to live in the communion of that See, and the Fathers in that Age to give high expressions of being in

p *Cod. Theodos. lib.* 16. de his qui religione contendunt, *leg.* 6. 3.

∴ Æneæ Silvii *Epist.* 301. *in edit. Lugduni* 1505. *ut Bellarmino epist.* 288.

union with it. :: S. *Ambrose* shewing the devotion of his brother *Satyrus* in a tempest, adds yet farther as a mark of it, *Advocavit ad se Episcopum —— percontatusque exeo est utrumnam cum episcopis catholicis, hoc est cum* Romana *ecclesia, conveniret:* and S. ', 'Hierom, a person very superlative in praising and reprehending, writing about the same time to *Damasus*, *Ego nullum primum nisi Christum sequens, Beatitudini tuæ, id est cathedræ* Petri *communione consocior* &c. and in the year 602. a certain Bishop returning out of schism *spontanea voluntate* did swear, :·: he *in unitate sanctæ ecclesiæ catholicæ, & communione* Romani *Pontificis, per omnia permansurum* &c. All which in time bred an opinion, that Chair could not entertain an error, and the beginning of the mark absolutely inverted; for those men who at first were, as others, sought unto ¶ because they did conserve the religion S. *Peter* had planted in *Rome*, must in after-ages be onely held to maintain the same doctrine because they are in that See; so that the Doctrine did not commend the person, but the being in that seat, and recommended from thence, be it what it will, it ought to be received: insomuch as † Cardinall *Bellarmine* doubts not to write, *Si Papa erraret præcipiendo vitia vel prohibendo virtutes, teneretur ecclesia credere vitia esse bona & virtutes malas, nisi vellet contra conscientiam peccare:* for which he was ∫ afterward forced to an Apology; yet is not in my opinion so absurd as the ‡ rule left by certain religious persons 1606. to their confidents at *Padoua*, containing *ut ipsi Ecclesiæ catholicæ* (understanding the Pope) *omnino unanimes conformesque simus: si, quod oculis nostris apparet album, nigrum illa esse definierit, debemus itidem quod nigrum sit pronuntiare* &c.

: Ambros. *oratio de obitu fratris.*

', Hieron. *ad Damasum epist.*

:·: Gregor. *lib.* 10. *epist.* 31.

¶ Cod. *Theodos. lib.* 16. *de fide Catholica leg.* 2.

† De *Romano Pontif. lib.* 4. *cap.* 5. §. *Quod autem.*

∫ *Recognit. pag.* 19. *edit.* 1608. *Ingolstat.*

‡ *Regul.* 13.

5. But to return whence I have a little digress't: it being plain by these lawes, the Emperours restrained points of Heresy to the Catholick Doctrine of the

Father, *Son* and *holy Ghost*, the ground of the four first generall Councils; and others not to be esteemed hereticks: in which sense I conceive sundry of the ancients take the word; as [u] S. *Hierome*, when he sayes *all Hereticks leave God*; and *Socrates*, when he agrees such as [x] condemned *Origen*, *finding not to blame his opinion of the holy Trinity, must confesse he held the right faith*: and *Leo* the first, when in an epistle about 449. he exhorts the Emperour *Theodosius* to consider the glory of S. *Peter*, the Crowns of the Apostles, *cunctorumque Martyrum palmas, quibus alia non fuit causa patiendi, nisi confessio veræ divinitatis, & veræ humanitatis in* Christo, doth intimate the true faith to be contained in that profession. After these restrictions in the declaration of Heresy, it is likely divers Sects grew very audacious, either conceiving themselves without the compass of law, or trusting in their friends and numbers; insomuch as *Arcadius*, *Theodosius* and *Valentinian*, in the year 395. were forced to declare, [y] *Hæreticorum nomine continentur, & latis adversus eos sanctionibus debent subcumbere, qui vel levi argumento judicio Catholicæ religionis & tramite detecti fuerint deviare*: which [z] St. *Augustine* explains, *eos utique hæreticos appellant, qui non sunt communionis eorum*, as the Councell of *Constantinople* had before, taking the word in a larger sense then others had done. Upon which the *Donatists*, that were the most [a] furious, so as neither the persons nor goods of Catholicks that dwelt amongst them were safe, are more [b] severely censured in them, then others, whose opinions were certainly more dangerous, yet whom Emperours did think worthy of more favour.

6. But whilst Princes did thus by their lawes onely correct Hereticks, and the temporall Magistrate execute their commands, they did rarely think fit to proceed

u Hier. *in Ierem.* 19.

x τὴν ὀρθὴν εὐσέβειαν. Socrates *lib.* 6. *cap.* 17. *al.* 12.

y *Cod. Theodos. lib.* 16. *leg.* 28. *de Hæret.*

z August. *in Psal.* 57. *to.* 8.

a *Ibid. leg.* 38. *vide* August. *epist.* 68. & *to.* 7. *contra lit. Petil. cap.* 83.

b *Cod. Theodos. de Hæret. lib.* 16. *leg.* 37, 38, 39, 40, 52, 54, 65.

* to bloud, unleſſe perhaps [c] againſt ſome ſeditious preacher; and the holy men of thoſe times uſed earneſt perſuaſions to deter any inclined to that ſeverity, as not eſteeming it to agree with the entire charity of a Chriſtian. S. *Auguſtine*, whoſe labours no man equalled to preſerve the Church from that contagion, when *Donatus* the Proconſul of *Africa* went farther then that holy man liked in that kind, [d] profeſſeth he had rather be himſelf ſlain by them, then by detecting the *Donatiſts* be any cauſe they ſhould undergo the puniſhment of death. S^t. *Proſper* [e] remembers four Biſhops to have been excommunicated 392. for being accuſers of *Priſcilian* (the firſt I have read of had his opinions confuted not by Syllogiſms but ſteel.) From whence [f] *Baronius* conceives it proceeds, that ſuch as deliver an Heretick to the Secular for execution, to this day, effectually intercede he may not be puniſht with death; yet, as it were to mock God and delude the world, if the Lay having him in his power, ſhall defer the doing it more then ordinary, it is the conſtant tenet of the Canoniſts, relying on a Bull of *Alexander* the 4. 1260. he is to be compell'd unto it by ſpirituall cenſures, yet may not take any cognizance of the cauſe at all.

* *I cannot but with the learned* Weſembechius (*in Cod. lib. 1. Tit. 5. de Hæreticis &c.*) *underſtand thoſe words,* Manicheos de civitatibus pellendis & ultimo ſupplicio tradendis, *not to be meant of taking away their lives; though I am not ignorant* Celſus *the lawyer ſo interprets* ultimum ſupplicium *ff.* de pœnis *leg.* 21. *for to what uſe were the banishing them the City, if they were to be inſtantly executed? and that law being taken out of* Cod. Theodoſ. leg. 65. de Hæret. *where thoſe words are altogether omitted, I conceive* Iuſtinian *intended by them no other but thoſe* Capitales pœnæ *that were* mortiproximæ, *as* metalli coercitio, in inſulam deportatio, *&c. ff.* de pœnis *leg.* 28. *The like may ſerve for anſwer to thoſe other Reſcripts* in *Cod.* Theodoſ. *de Hæret. leg.* 9. 36. *It is manifeſt by many places of S.* Auguſtine, *as* to. 7. contra lit. Petiliani, lib. 2. cap. 86. *that there was no law during his time againſt the life of an heretick; and* Bellarmine *himſelf confeſſeth as much,* de laicis *cap.* 21. *§ Auguſtinus. But however the matter is not great, being onely againſt ſome particular hereticks, whoſe deportments may be thought to have been ſeditious as well as their Conſcience erroneous*

[c] *De Hæret. leg.* 8. *Cod. Iuſtin.* [d] *Epiſt.* 127. *& Retract. lib.* 2. *cap.* 5. [e] Proſper *in Chronico An.* 392. [f] To. 4. *Anno* 386. *n.* 23. *Vide* Iohan. Royas *ſingular.* 107. *n.* 6. *Directorium Inquiſitor.* 2. *part. cap.* 27. *p.* 131. *col.* 1. *par.* 3. *quæſt.* 102. *p.* 702. *col.* 2. *edit. Romæ* 1585. *vide* formulas *&c. ad finem* praxis judiciariæ Inquiſit. *p.* 524. *& p.* 526. [g] *Direct. part.* 3. *in quæſt.* 36. Franc. Pegn. *comment.* 35. *p.* 608. *col.* 2. Iohan a Royas *ſingular.* 107. *n.* 2. *vide part.* 2. *n.* 450.

7. It being then the courſe in the primitive times, that in the proceeding againſt Hereticks, the Eccleſiaſtick

stick did conclude what * *Tenets* were Heresy, and the Temporall whether the party accused were guilty of the imputation, and likewise of his punishment (as is manifest by imperiall constitutions, the writings of the ancient Doctours, the custome of the Catholick Church, that never prayed against Hereticks, but Heresy,) did so remain at least 800. yeares after *Christ*: but about that time the division of the Empire falling out, and Episcopall Consistories establisht through *Europe*, Bishops did begin to claim as matters ecclesiasticall, and onely proper for their Courts, the acting in those causes; which in some sort might be, so far as the determination what is Heresy did extend. And about the year 1000. the Christian world (as branches not bearing fruit in *Christ*, and therefore to be cast into the fire, *Iohn* xv. 6.) began to take that way of punishing *Miscreants*; so in [b] *Italy* [i] and *France*, *jussu Regis & universæ plebis consensu*, some were thus destroyed: and in imitation of Emperors, who had by their edicts prohibited all complyance with Heresy [k] so far, as to punish any lending for that end places to resort unto, [l] *Alexander* the 3. 1163. in a Councill held at *Tours*, & in another at *Rome* 1179. making very strict canons against Hereticks, declared, *eos & defensores eorũ & receptores anathemati decernimus subjacere, & sub anathemate prohibemus ne quis ipsos in domo vel in terra sua tenere vel fovere, vel negotiationem cum eis exercere præsumat*. Of which the later being [m] registred in the Canon law, is the first ecclesiastick constitution in it I have observed to condemn rather *Hereticks* then *Heresy*. Soon after which :: Publicani *comburebantur in pluribus locis per regnum*

* *Statute at Leicester 2. H. 5. cap. 7. Here I cannot but observe,* Possidonius *in the life of St. Augustine cap. 18. noting the manner used then in the Catholick Church in condemnation of Hereticks, conformable to what is here specifyed, adds,* Et hoc tale de illis Ecclesiæ Dei catholicæ prolatum judicium etiam piissimus Imperator *Honorius* audiens ac sequens, sic it eos legibus damnatos, inter hæreticos haberi debere constituit. *against which some had added in the margin,* Cæsar pronuntiat hæreticos: *but that shewing too apparent,*

T 3

the custome of those times might perhaps (when the place it self was not) be regarded. The Inquisitors therefore of Spain *in their* Index *at* Madrid 1612. *p.* 37. *col.* 1. *appoint it to be blotted out. But this edict against the Pelagians of whom that Father speaks, is not now found either in the Codex of Theodos. or Iustinian. But see* Baronius *tom.* 5. *anno* 419. *n.* 57, 58. Baron. *to.* 10. *Anno* 1000. *n.* 4. [i] *Ibid. to.* 11. *Anno* 1017. *n.* 4. [k] *Cod. Theod. de Haret. leg.* 12, 21, 34, 36. *&c.* [l] Hoved. *fol.* 334. *a.* 42. *& apud* Neubrigens. *lib.* 2. *cap.* 15. *canon.* 6. [m] *De Hæreticis cap.* 8. :: Roger Hoveden, *Anno* 1182. *fol.* 352. *b.* 29. *in fine anni.*

÷ *gnum* Franciæ, *quod Rex* Angliæ *nullo modo permisit in terra sua, licet ibi essent perplurimi.*

8. Yet the pious men of those times seem not to approve of this rigour. S^t. *Bernard*, one of the most devout persons of that Age (*vir plane Apostolicus* sayes [n] *Bellarmine*) following the doctrine of one much more Apostolick, [o] explaining *Cantic.* ii. 15. *Take us the little foxes that spoyl the vines*, writes, *si juxta allegoriam ecclesias vineas, vulpes hæreses, vel potius hæreticos ipsos intelligamus, simplex est sensus, ut hæretici capiantur potius quam effugentur; capientur dico, non armis, sed argumentis, quibus refellantur errores eorum, ipsi vero si fieri potest reconcilientur Catholicæ, revocentur ad veram fidem —— hoc denique velle se perhibet, qui non simpliciter* capite vulpes, *sed* capite nobis, *inquit*, vulpes parvulas; *sibi ergo & sponsæ* ÷ *suæ, id est Catholicæ, jubet acquiri has vulpes, cum ait capite eas nobis.* and a little after, *Quod si Hæreticus reverti noluerit, nec convictus post primam jam & secundam admonitionem —— erit devitandus.* Thus the holy men of the Age in which they stopt first mens mouths not with arguments but armes, did judge of it: and indeed we have not many examples of any suffered meerly for conscience till after 1216.

9. In which year, as some write, *Innocentius* 3us. [p] on the ignorance or remissnes of Bishops in prosecution of Hereticks, did give beginning to the [q] erection of a new Court, called since the *Inquisition*: of whose institution and use, because it hath highly served to the raising the Papacy, it will be necessary to say something. He therefore at that time appointing *Dominicus* a *Spaniard*, founder of the *Dominican* Order, by a Commission delegated from him, his Inquisitor against the *Albigenses* in *France*, (without abrogating the power of Episcopacy in that kind) gave to him, onely a private Friar, such a power, as caused divers of them to be destroyed by that auctority in another Princes Dominions. Though such as

[n] *De scriptor.*

[o] *Bernard. in Cant. serm. 64. to. 1. col. 987. k. edit. 1586.*

[p] Paramo *de origine Inquisit. lib. 2. Tit. 1. cap. 1. n. 7. p. 90.* Simancha *Cathol. Institut. Tit. 25. n. 4. p. 182. Rome 1575.*

[q] Paramo *de origine Inquisi.*

[r] I have ſeen do conclude the auctority he exerciſed to have been from *Innocentius* 3^m. yet of the time when it was granted they do ſomewhat diſagree. *Franciſcus Pegna*, a *Spaniſh* Doctor, who publiſht his annotations on the *Directorium Inquiſitorum* at *Rome* 1585. yet it ſeems [ſ] could not ſecure himſelf from them, [t] holds it to have been firſt committed unto him about 1200. on the other ſide *Paramo* of the ſame nation, that was himſelf an Inquiſitor in *Sicily*, and expreſly writes of that ſubject, is [u] clearly of an opinion it could not be before the concluſion of the Councell of *Lateran*; and for proof gives in my judgement a very probable reaſon, *viz.* That no Papall Decretall, or Hiſtory preceding, did ever name any ſuch Inquiſitor, that very [x] Councell when it treats of Hereſy ſpeaks of no other Judge then the Biſhop: now it ending about *Eaſter* 1216. ([y] as I ſhall ſhew hereafter) if granted by *Innocentius*, it muſt be at ſome time between *March* and the 16. *July* 1216. when that [z] Pope dyed. Yet I cannot omit that [a] *Camillus Campegius*, in his additions to *Zanchinus*, ſpeaks as if after that Councell Friar *Dominick* had not his auctority from the Papacy immediately, but from one *Bertram* or *Bertrand* a Cardinall Prieſt: but who that *Bertram* was, I confeſs I have not been able to ſatisfie my ſelf. [b] *Ciaconius* remembers one of the name employed againſt the *Albigenſes*, promoted to that honour by *Innocentius* 3^m. 1212. but he ſtyles him onely a Cardinall Deacon; as he hath another ſo called that was a Prieſt, but he was no Cardinall, till *Honorius* 3us in *December* 1216 preferr'd him to the honour, ſo was not capable of ſerving Pope *Innocent* in that degree.

10. But whoſoever firſt began it, *Frederick* the 2d certainly much augmented their power, [c] publiſhing the

r Franciſcus Pegna, Ludovicus à Paramo, Famianus Strada *de bello Belgico lib.* 2. *p.* 41. *in fol. Romæ* 1640.

ſ Oſſat. *Epiſt.* 59. *Romæ* 5. *Jun.* 1596.

t *In Director. part.* 3. *comment.* 32. *p.* 495. *col.* 1. b.

u *De origine Inquiſit. lib.* 2. *Tit.* 1. *cap.* 1. *n.* 13. *cap.* 2. *n.* 3. *p.* 96. *col.* 2.

x *Cap.* 6, 7, 8.

y *Cap.* 8. *n.* 36.

z Urſpergenſis *p.* 321. *obiit apud Peruſium* 1216. 16. *Calend. Auguſt.*

a *Edit. Romæ* 1579. *p.* 149. *concilio abſoluto Bernardus presbyter cardinal. ipſum legationis officium obtinuit, qui prædeceſſorum exemplo B. Dominicum Inquiſitorem ſimiliter inſtituit.*

b Alphonſus Ciaconius *de Cardinalibus, Romæ* 1630. *p.* 650. *col.* 1. & *pag.* 663.

ol. 1. c *Vide Bull. Innocent.* 4. *dat.* 14. *Kalend. Junii Pontific. anno* 11. 1254. *in Bullario à* Franciſco Pegna *edit. ad calcem Directorii, p.* 16. & *Alexandri* 4. *ibid. p.* 34. & *Clementis* 4ti. *ibid. p.* 57. *&c.*

the 22. of *February* 1224. three lawes at *Padua*, by which he did constitute the *Dominicans* Inquisitors through the Empire, yet taking all others under his protection; and appointing such as should be convict of Heresy, *ut vivi in conspectu hominum comburantur, flammarum commissi judicio, &c.* That these edicts were publisht at the onely instance of *Honorius* 3us. is very probable, in that they are not any way [d] recorded but in papall bulls *quoad verba*, (∴ as I shall shew hereafter.) After which, severall persons in divers parts proceeded against them by commission from *Rome*: so as the Bishop, who was the ordinary detector of Heresy, had little to do, and became daily to have lesse and lesse; that although his power be not in those cases absolutely taken off, yet it is so impaired, as it gives place to the Inquisitor; insomuch as if one suspected of Heresy be cited by him and the Bishop [e] at the same time, his appearance must first be in the Inquisition: and the reason given is, because they have a power by a delegated commission from the Pope, [f] whereas to the other *jure divino hæc cura incumbit in hæreticos inquirere*; and [g] *Simanca* yet more plain, *Cum Episcopi non habeant secretum carterem, nec ministros idoneos ad procedendum adversus hæreticos, non possunt servare ordinem illum qui præfinitus est Inquisitoribus: quam ob rem usque eo tantum procedere debent, ut in hæreticos vel suspectos inquirant, & summariam probationem Inquisitoribus secreto mittere debent.* So that what power the Bishop hath in this kind from *Christ*, he is now become little other then agent or substitute to the Inquisitor in point of Heresy.

d In sexto de hæreticis cap. 18. Glossa ad leges quasdam. ∴ n. 18.

e Paramo de potestate delegata lib. 3. Quæst. 2. n. 109. p. 536. col. 1.

f Ibid. lib. 2. cap. 2. n. 11. p. 133. col. 1.

g Instit. Cathol. Tit. 25. n. 5.

11. But these Commissioners exercising their auctority with Fire, Tortures, and the like, in short time found themselves infinitely mistaken, in expecting by such violence to render that peace in the Church, and obedience in the world, the primitive Fathers by the truth of their Dictats, evidence of reason, and piety of their lives, drew

drew men unto: for in ſome places they were [h] expell'd by the peoples fury, hardly any where continued but by ſtrong hand; their carriage being ſo full of Scandall, as *Clement* the 5. in the Councell of *Vienna* could not but acknowledge they had ſo exceeded the power committed to them by the Apoſtolick See, [i] *ut quod in augmentum fidei per circumſpectam ejuſdem ſedis vigilantiam ſalubriter eſt proviſum, (dum ſub pietatis ſpecie gravantur innoxii) cedat in fidelium detrimentum.* For theſe men took upon them under the Pope, not onely to conſtrue what was hereſy, or complying with it, but on thoſe imputations to impriſon, fine, confiſcate mens goods, to the deſtruction of honeſt people, and families; which forced ſome States [k] to limit their proceedings, barre them of priſons proper to themſelves, and the wiſe *Venetian* appoint three Senators to ſuperviſe their actions: inſomuch as this delegated power did ſo decline, as notwithſtanding the many conſtitutions of *Innocentius* 4^tus^, *Alexander* the fourth, and ſeverall other popes yet extant for regulating of it, out of *Italy* it was little taken notice of; [l] in *Spain* it remained *obſcurum debilitatumque*, till *Ferdinand* and *Iſabella* 1479. by agreement with *Xiſtus* 4. or, as [m] others, 1484. with *Innocentius* 8, did ſo renew it, as [n] *Simanca* doubts not to write, they did introduce it into that Kingdome: which I conceive to be in reſpect of the alterations in the proceedings now uſed to thoſe were formerly; for that tribunall, in preceding times committed from the Papacy to Friars regulars (who moſt depended on *Rome*,) and therefore ſaid to be the Popes Court, is ſince by this concord become in effect no other then the Kings, being recommended to the care of Clerks ſecular and Lawyers, the *Dominicans* who formerly governed it altogether excluded, unleſſe where the Inquiſitors require their counſell.

12. The ſtyle or manner there uſed being, that his

h *Vide additiones ad* Lambertum Schafnaburgenſem *anno* 1232. Tritem. *Chronic. Hirſaug. anno* 1214. *p.* 223. *& anno* 1233. *p.* 235. Mat. Paris *Anno* 1236. *p.* 429. *anno* 1238. *p.* 432. Munſteri *Coſmograph. p.* 477.

i *In Clement. de Hæretici, cap.* 1.

k *Vide* Giovanni Villani *lib.* 12. *cap.* 57.

l Paramo *de origine Inquiſit. lib.* 2. *Tit.* 2. *cap.* 2. *n.* 13. *p.* 133. *& cap.* 3. *n.* 5. *p.* 136.

m Franciſ. Pegna *in Director. part.* 3. *com.* 32. *p.* 49^c^. *col.* 1.

n *Cathol. Inſtit. Tit.* 34. *n.* 5. *See* Pegna *ubi ſupra.*

Maty [o] names an Inquisitor generall, whom the Pope approves, and after is not at all admitted to interpose; for that Inquisitor nominates a Councell, of which himself is President, for number and persons as the King likes (as sometimes five, to which *Philip* the 2. added two more,) and these be of the graveſt divines of *Spain*, ever residing at or near the Court, who compose all differences arising in particular Courts, receive all appeals, punish the defect of agents, and relates to none but the King. Of this Councell, as I said, the Inquisitor generall is President, whose auctority is very ample; for he nominates all provinciall Inquisitors and their Officers, (who yet enter not on their charges but by the Kings allowance) whom on occasion he removes and punishes, releases all penances, appoints visitors over particular Courts, and though he be directed by the rule of the Canon Law and papall bulls, yet on occasion varies from them, as is manifest by [p] these Instructions, *Relinquendum est arbitrio & prudentiæ Inquisitorum, ut procedant juxta juris dispositionem in his quæ hic non expresse declarantur*, is answerable to none but the King, admitting the Pope either very little or not at all: insomuch as [q] *Pius* 4^tus^ 1565. sending the Cardinall *Buoncompagno* into *Spain*, upon the cause of the Archbishop of *Toledo*, committed by the Inquisition there six yeares before on an imputation of heresy, the Kings counsell liked not he should alone examine that Prelate, without joyning two *Spaniards* both in the processe and sentence. Neither did that State receive the Councell of *Trent* 1564. by other auctority then the Kings onely, who by his edict of the 12. of *Iuly* commanded the Cardinalls and others of his Clergy to observe it, without making any mention of the Pope. So that in that Kingdome this Catholick Prince doth not take on him much less over Eccleſiastick Courts and causes then the King of *England*, however he do not style himself Head of

[o] *Vide* Paramo *de origine Inquisit. lib. 2. Tit. 2. cap. 4. per totum* : & Simanca *ubi supra, Tit. 34. n. 6, 7.*

[p] *Instruct. Hispal. cap. 28. ut citatur à* Paramo *p. 146. col. 2. n. 4.*

[q] Adriani *Hist. lib. 19. p. 1341.* & *ibid. lib. 18. p. 1273.* Ilescas *Hist. Pont. Madriti 1606. lib. 6. in Pio 4. fol. 342. a. col. 2.*

of the Church. And therefore [r] *Simanca* speaking of this Inquisition, plainly sayes, *Ferdinand* and *Isabella judicii ordinem quo etiam hodie utimur magna ex parte instituerunt*. Insomuch as if we meet it at any time termed the *Popes Court* there, it is, no question, but a nominall appellation, of that is neither subject to his rules, nor to follow his commands, but as another will.

r *Cathol. Instit. Tit.* 34. *n.* 5.

13. But this Court in *Spain*, and other places conforming themselves much to the papall interest, is become very infamous, things being carried in it, as we read in [s] Monst. *de Thous* excellent history, *præpostera judiciorum forma, contra naturalem æquitatem, & omnem legitimum ordinem, —— tum etiam immanitas tormentorum, quibus plerumque contra veritatem, quicquid delegatis judicibus libebat, à miseris & innocentibus reis, ut se cruciatibus eximerent, torquebatur.* And indeed the directions Popes have set them, do not agree I think with the practise of any standing Court of Justice the world ever saw: as that of [t] *Innocentius* 4us and [u] *Pius* 4us, that no man shall know the names either of his accuser or that testifies against him, which [x] *Camillus Campegius* will not have communicated to those learned men th' Inquisitors shall call to their assistance in judgement. Another [y] of *Pius* 5^tus^, that no declaratory or definitive sentence in favour of the accused, though after a canonicall purgation, *posse facere transitum in rem judicatam*, but that they may again proceed *tam de antiquis quam noviter super eisdem articulis*: which in effect is no other, but that a man once accused before them can never be freed. Of a third of the [z] same Pope, that whosoever should strike or terrify any belonging to the said Office, (even a Notary or servant) should assist any to escape, imbezzle any

s *Hist. lib.* 3. *p.* 81. *Anno* 1547.

t *Apud* Eymericum *Director. Inquisit. par.* 2. *p.* 145.

u *Bulla Pii* 4. *cui initium* cum sicut. à Francisco Pegna *post Directorium edita p.* 162.

x Constanter afferere audeo, quod nec ipsis peritis totus processus integraliter cum nominibus & circumstantiis publicandus est, *&c. Additiones ad cap.* 14. Zanchini *p.* 104. *Romæ* 1579. *edit.*

y *Bulla Pii* 5*ti*, *cui initium* Inter multiplices curas. *dat. Romæ* 21. *Decembr.* 1566. *ubi supra, p.* 169.

z *Bulla Pii* 5*ti*, *cui initium* Si de protegendis, *dat. Romæ* 1. *April.* 1569. *ibid. p.* 174.

any writings of that Court, beſides the being by that Bull declared *Anathema*, ſhould be guilty of treaſon, and ſuffer according as men found culpable *in primo capite dictæ legis*, their children ſubject to the paternall infamy, to be not onely incapable of ſucceeding in the fathers inheritance, but of receiving any legacy from friend or ſtranger, or attaining any place of dignity whatſoever; and others of the like nature, too long to be inſiſted on.

14. Certain it will not be eaſy (at leaſt to my underſtanding) to proye theſe proceedings of a Court Chriſtian to agree with thoſe rules and examples Chriſt himſelf hath left us in holy Scripture: but the purſuing theſe Maximes, and the like, hath brought a great obloquy upon this Court, ſo as it is held an undoubted truth, the Inquiſition under the *Spaniard* hath an eye rather to [a] empty the purſe, and is upholden more for temporall ends, then to cure the conſcience. And to this purpoſe it may not be here unfitly remembred, that a *Spaniſh* Inquiſitor, employed by *Philip* the 2. into *Sicily*, writes, it is found amongſt the records of that Kingdome, :: *quod quando in anno* 1535. *fuit limitata ſeu ſuſpenſa juriſdictio temporalis hujus ſancti officii in aliquibus caſibus per invictiſſimum Carolum* 5^tum *felicis memoriæ, juriſdictio ſpiritualis cauſarum fidei fuit in ſuſpenſo, & quaſi mortua*: which I take no other then a confeſſion, the Church, which it maintains, without the temporall power would fail and come to nought; as indeed [b] Cardinall *Bellarmine* ſomewhere in effect confeſſeth, that to reſtrain eccleſiaſtick juriſdiction to ſpiritualls, that pertain to the ſoul, is to reduce it to nothing.

15. But becauſe I am here entred upon this fining or confiſcation of the goods of a Lay perſon by a ſpirituall judge, on the conviction (or rather imputation) of Hereſy, it will not be amiſs to ſee how the Eccleſiaſticks have gained that addition to the power left them by *Chriſt*; which is ſo neceſſary, as without it, that onely was

[a] Adriani *lib.* 17. *p.* 1258. *c.* *Hiſt. Concil. di Trent, lib.* 8. *p.* 776.

:: Paramo *de origine Inquiſit. lib.* 2. *cap.* 11. *n.* 17. *p.* 203.

[b] *Riſpoſta ad fol.* 22. *Apolog. del Padre Paolo p.* 85.

was committed to them from him, which the ancient Fathers practis't, would be as it were dead. It cannot be denyed, Princes did in former times by their edicts impose pecuniary penalties on some actions concerned religion; so did [c] *Theodosius* 392. on such as did ordain or were ordained *in Hæreticis erroribus*; which law a [d] Councell held in *Africk* about 404. (provoked by the inhumanity of the *Donatists*) did petition th' Emperour *Honorius* might be of force against them: but never any holy Bishop of those times took upon him to confiscate any mans estate for his opinions, much lesse to damnify the son for the fathers *tenets*; and the lawyers do expresly resolve, [e] *si pœna alicui irrogatur —— ne ad hæredes transeat*, and give this reason, [f] *Pœna constituitur in emendationem hominum, quæ, mortuo eo in quem constitui videtur, desinit*; again, no man is *alieni criminis successor*: and accordingly, many [g] imperiall constitutions do expresly provide, the Catholick children of hereticall parents (though the father were deprived of them) should succeed in their paternall goods; and thus it stood for ought I know for above a 1000 yeares, the Christian world thinking it hard the son should suffer for an erroneous perswasion of the father, neither did ever any holy Bishop for that space (unlesse as Deputy to some Prince) take upon him that way of punishing, and if any did, it was not approved in him.

16. In the year 1148. [b] th' Archbishop of *Canterbury* called by *Eugenius* 3^m^ to a Councell at *Reims*, the King denied him passage; yet he stole thither; for which on his return he was expell'd *England*: into which notwithstanding he got, shrouding himself, as it seems, in those tempestuous times, and to make himself the more formidable, interdicted divine service through the Kingdome (which is the first experience the nation ever had of that censure.) To this the Prior of S. *Augustines* refused to yield obedience: and th' Archbishop having

c *Cod. Theod. de Hæret. leg.* 21.

d *Concil. Afric. cap.* 60. & Baron. *to.* 5. *Anno* 404. *n.* 123.

e *ff de pœnis leg.* 20.

f *Ibid. & leg.* 26.

g *Cod. Theod. de Hæreticis leg.* 40. *lata Anno* 407. *in Cod. Iust. tit. eodem leg.* 4. 19. *lata Anno* 530. *& in Authenticis Novel.* 115. *cap.* 3. §. 14. *lata Anno* 541. *&c.*

h *Vide* Gervas. Dorobern. *col.* 1363, 1364, 1366. 1. 1666. 20. Willielmus Thorn *col.* 1807. 52. *&c*

now made his peace with *Stephen*, got the sentence confirmed from *Rome*; upon which [i] *omnes seculares in hoc monasterio servientes, præter censuram ecclesiasticam, ad gravem pecuniæ redemptionem, contra juris æquitatem & sanctorum patrum decreta, coegit.* On this complaint being made to the Pope, he writ unto him, [k] *Sicut nobis significatum est, homines ejusdem monasterii, pro participatione excommunicatorum, præter ecclesiasticam pœnam fuerunt ad redemptionem coacti*; and thereupon commands him, *quatenus omnia quæ hac occasione sunt eis ablata sine vexatione restitui facias, nolumus enim ut nova in vestra ecclesia inducantur* &c. so that certainly it did but then begin to bud: & after 1160, *Alexander* the 3. [l] condemns the use of the Archdeacons of *Coventry*, who *pro corrigendis excessibus & criminibus puniendis, à clericis & laicis pœnam pecuniariam exigunt*, affirming it seemed to proceed *de radice cupiditatis & avaritiæ*: yet the same Pope in a [m] Councell at *Rome* 1179. appoints the goods of hereticks to be confiscated, but gives not at all any auctority to the spirituall judge in the execution of it; and at the compiling of the Decretalls by *Gregory* the 9. [n] that particular is omitted.

17. But not long after *Innocentius* 3, that *vere stupor mundi* and *immutator seculi*, as [o] *Matthew Paris* styles him, about the year 1200 [p] appointed the goods of Hereticks under his jurisdiction should be confiscated, and out of it the like to be done by the secular magistrate, upon pain of Ecclesiastick censures; adding from certain [q] imperiall constitutions, that it being onely an act of mercy, that the children of such as commit treason have their lives spared, when they loose their goods, and the crime far greater to offend God then man, that the severity should not give scandall to the faithfull, in seeing children exposed to misery for the parents offence, there being many cases wherein according to the divine justice sons may be punisht for the fathers fault, which he leaves

i Thorn, col. 1803, 63.

k Thorn, 1809, 55.

l De pœnis, cap. 3.

m Apud Rogerum Hoveden fol. 334 B. 3. & concil. general. Romæ cap. 3. p. 33. col. 2.

n De Hæreticis cap 8.

o Hist. minor. Anno 1217.

p De Hæret. cap. 10 & Regist. Innocent. 3. lib. 3. epist. 1.

q Cod. Theod. de fidei iis leg. 3. & Cod. Just. ad legem Iuliam Majestatis leg. 5. §. Filii.

leaves the Canoniſts to juſtify by th'examples of *Chanaan*, the children in *Sodom*, of *Achan* &c. as I do the reader to [r] ſeek in them. But it ſeems to me an hard gloſs, from prophetick ſpeeches of the primitive times, or extraordinary examples, when God himſelf directed what he would have done, for us now to conclude a practiſe lawfull contrary to expreſſe precept, *Deut.* xxiv, 20. *Ier.* xxxi, 30. *Ezech.* xviii, 20. made good likewiſe by the ordinary [ſ] uſe of thoſe times. Beſides, I am not ſatisfied with the reaſon, that temporall Lords puniſhing treaſon with the heirs loſſe of Eſtate, Hereſy being an offence of the ſame or a worſe nature againſt the Divine Majeſty, children ought ſo to ſuffer: For doubtleſſe all treaſon againſt a Prince preſuppoſeth malice to his perſon or government, (and therefore we do not read that for meerly caſuall misfortunes, ſuch as *Tirrells* in *England*, or *Mongomeries* in *France*, men have been ſo puniſht) and for that they take away the offenders life upon the firſt fact, which th' Eccleſiaſtick [t] pardons: now queſtionleſſe Hereſy is out of an erroneous opinion the holder hath of pleaſing God.

18. This of *Innocentius* 3us I take to be the firſt papall conſtitution in the kind; yet ſome 16. yeares before it, divers of ſeverall qualities being diſcovered in that part of the *Netherlands* was then within the province of *Reims*, the Archbiſhop and Earl of *Flanders* joyned in an edict, [u] *ut deprehenſi incendio traderentur, ſubſtantiæ vero eorum ſacerdoti & principi reſignarentur.* After this in [x] the Councell of *Lateran* 1215. under the ſame Pope it was again eſtabliſht, *bona damnatorum* [*de hæreſi*] *ſi laici fuerint, confiſcentur; ſi vero Clerici, applicentur eccleſiis à quibus ſtipendia perceperunt* &c.

Nine yeares after which *Fredericus* 2^dus^ publiſht thoſe lawes at *Padoua*, of which before, in which he did eſpecially eſtabliſh the confiſcation of their goods, and is the firſt imperiall conſtitution of that kind; which remain no

r Alphonſus à Caſtro *de juſta hæreticorum punitione, lib.* 2. *cap.* 11. Simancas *Inſtit. Cathol. Tit.* 9. *n.* 5. 6. Iohan. Royas *ſingular.* 66. *n.* 5, 6. *Vide* St. Auguſt. *lib.* 6. *Quæſtion.* 8. *ſuper Ioſ.* 10. 4. [ſ] 2 Kings xiv, 6. 2 *Chron.* xxv, 6.

t *De Hæret. cap.* 9.

u *Chronicon Aquicinctinū* à Miræo 1608. *editum ad calcem* Sigeberti Gemblacenſis & *aliorum, p.* 236. *anno* 1183.

x *Concil. Lat. cap.* 3. & *de Hæretic. cap.* 13.

no where now entire save in some [y] papall bulls, as of *Innocentius* 4. *Alexander* the 4. and *Clement* the 4. as is noted *in Gloss. de Hæret. cap.* 18. *in sexto ad verb.* leges quasdam: yet some part of them are now inserted into [z] the Codex of *Iustinian*, under the titles of *Authenticæ* or *nova constitutio Frederici* 2. de statu & consuetud. *&c.* as I have touched before.

19. But these lawes, though they confiscated the goods of Hereticks, did not appoint how they should be employed; insomuch as the same Emperour, being that very year 1224. at *Palermo* in *Sicily*, [a] expressed his intent to all his Officers through the Empire, but more especially in that Kingdome, that whereas formerly his Exchequer did receive the benefit of those confiscations, they should be divided into three parts, *viz.* one third *Fisco*, another *Apostolicæ sedi*, & the other third *eisdem Inquisitoribus*. After which [b] *Innocentius* 4us 1252. did appoint a distribution in some sort imitating him, as did likewise [c] *Alexander* the 4th, including as liable to the same punishment such as were receivers of Hereticks: to [d] which *Clement* the 4. 1265. added, that the houses in which Hereticks were found, to be destroyed without hope of reedifying, the materialls sold, and a threefold division made, *&c.* These deprivations confined hitherto to *Italy* onely, *Boniface* the 8. 1295, or rather [e] 1297, publishing the sixth book of the Decretalls, made generall, decreeing, [f] *bona Hæreticorum ipso jure decernimus confiscata*: whereupon, and some other by him then inserted into the Canon law, Bishops laboured to draw from th' Inquisitors part of the profits thus distributed; but [g] *Benedict* the 11. 1303. did absolutely prohibit that, *tanquam juri absonum*. After which, because (as it seems) the Clergy were not free from prosecuting men onely for their estates, *Clement* the 5th in the Councell of *Vienna* 1311. strictly [h] injoyned, *ne prætextu officii Inquisitionis, quibusvis*

y *Eduntur à* Franciſco Pegna, *ad finem Directorii.*

z De Epiſcopali audientia, *cap. Statuimus, &* de Hæret. Manichæis, *cap. Gazaros &c.*

a *Apud* Paramum *de origine Inquisit. lib.* 2. *tit.* 2. *cap.* 11. *n.* 8. *p.* 198.

b *Bul. Innoc.* 4. *dat. idibus Maii* 9. *Pontif. cui initium* Ad extirpanda *&c. in bullario. et à* Franciſco Pegna *ad finem Directorii, p.* 11. §. *Teneantur.*

c *Ibid. p.* 37. §. *Teneatur. dat. Anagniæ* 2. Kalend. Decem. 1259.

d *Ibid. p.* 65, §. *Teneatur. bulla Clem.* 4. *dat. Perusii* 3. Non. Novemb. 1. *Pontificat.*

e *Annal. ecclesiast.* Renaldi *to.* 14. *Anno* 1297. *n.* 41.

f *De hæreticis in sexto cap.* 19. *vide cap.* 17, 18.

g *Extrav. commun. cap.* 1.

h *In Clem. de Hæreticis cap.* 2.

buſvis modis illicitis ab aliquibus pecuniam extorqueant; and likewiſe, *ne ſcienter attentent eccleſiarum bona, ob clericorum delictum, prædicti occaſione officii fiſco etiam eccleſiæ applicare*; changing what the Councell of *Lateran* had before eſtabliſht.

20. Yet notwithſtanding this grave admonition of the Pope, their Agents did not carry themſelves without ſcandall in this kind, by reaſon of an [i] outrage ariſing from a *Franciſcan* Inquiſitor 1346. in *Florence*; a Scrutiny was had of his actions, and found he had raiſed from the Citizens 7000 florens of gold in two yeares, as compoſitions, or fines, upon the imputation of Hereſy, yet never leſſe in the town; but any erroneous or leſſe cautelous word was cenſured as criminall. This drew the *Florentine* to conform themſelves to the uſages of *Perugia*, *Spain*, and other parts, in making a law, no Inquiſitor ſhould condemn any Citizen or borderer pecuniarily, but if an heretick, ſend him to the fire. By which we may gather, theſe bulls were not generally received in the world; for then in *Spain* th' Eccleſiaſtick did not fine men, and now the King there hath the benefit of thoſe confiſcations. In [k] *France* they do not to this day impoſe on the Laicks *amendes pecuniares*, but onely on the Clergy, which muſt be expended *en aumoſnes* and *ouvres pitoiables*, not to the enriching themſelves, &c. Neither doth the wiſe *Venetian* permit confiſcating of eſtates to ariſe from any ſentence of theirs, but that is to devolve to the next heir. I do not here mention the conſtitutions of *Boniface* Archbiſh. of *Cant.* 1260. nor of *Stratford* 1343. in this kind; becauſe of the firſt little reckoning was made, and the ſecond did onely refer to commutation of penance, which the law allowes: he that would may find them in *Lyndwood* lib. 3. *de immunitate eccleſiæ* cap. *Accidit*, and lib. 5. *de pœnis* cap. *Evenit*.

[i] Giovanni Villani *lib.* 12. *cap.* 57.

[k] *Arreſt de la court de Parliament a Paris 27. Iun.* 1542. *habetur in libro des preuves des libertes del' egliſe Gallicane cap.* 38. *n.* 9. *p.* 1082.

21. If any ask a cauſe, why the ancient Fathers did proceed with ſo great lenity againſt blaſphemous here-

ticks, as the *Arrians*, *Nestorians*, &c. why, when the [l] Emperour would have punisht the furious *Donatists* with a pecuniary mulct, the holy men of those times so earnestly interceded as to procure the remission, and did requite their fury with such love & meeknesse, [m] as to be able to say, no one of them had payed what th' imperiall edicts might challenge; when of late yeares men have been brought to the fire, children exposed to misery by the loss of their parents estates, even by Bishops and other of the Clergy, whose opinions were neither so blasphemous as the *Arrians*, nor their comportments so inhumane as the *Donatists*: why they preached, men [n] relapsed, even to a thousand times, might yet live reconciled to the Church; when as now such as have renounced an opinion *Rome* calls heresy, being after found to hold it, is [o] *seculari judicio sine ulla penitus audientia relinquendus*; which yet is not observed if he be a Prince, as was *Henry* the 4. or perhaps a private man out of their power:

22. To these demands I can give no other answer, but, that their offences being against the holy Trinity, the pious Bishops of those times, as men who watched for soules, did content themselves to denounce what was heresy, but having done that, finding it not received, to leave the punishment to him who assures it shall go worse with *Sodom* and *Gomorrah* then those refused their instructions, and under him to the Secular magistrate; did likewise follow his precept, in forgiving even to [p] seventy times seven times: when on the other side, the opinions of these later hereticks (as they call them) be rather against men and their Institutes, then God, as that [q] *Romanum præsulem reliquis episcopis parem esse, Purgatorium ignem non inveniri, Celebritates sanctorum rejiciendas, Iejuniis ab ecclesia institutis nihil inesse meriti* &c. and a perswasion gained, none but the Ecclesiastick can [r] punish Heresy, who judge the opposer by the law of man, howbeit they style it Christian, yet how it agrees with divinity

[l] August. Epist. 68.

[m] August. contra literas Petiliani Donat. lib. 2. cap. 83.

[n] Χιλιάκις μετανοήσας εἴσελθε. Socrates de Chrysostomo lib. 6. cap. κα. lat. 19.

[o] De Hæreticis cap 9. & tit. eodem cap. 4. in Sexto. Simanca Instit. Cathol. Tit. 57. n. 10.

[p] Mat. xvlii, 22.

[q] Æneas Sylvius histor. Bohemica cap. 35.

[r] Cognitio hæresis & ipsius punitio pertinet ad episcopos. Lyndwood de Hæreticis cap. Item quia, verbo Ordinarii.

nity I remit to the Canoniſts deciſion. In the mean time I cannot but obſerve, [f] *Simanca* finds nothing out of holy writ, but onely in divine *Plato* lib. 10. *de legibus*, to maintain the poſition that *ſemel tantum hæreticis pœnitentibus parcitur* &c.

[f] *Catbol. Inſtit. Tit. 57.*

23. This being then the proceeding againſt Hereticks in generall, it will be neceſſary to ſee how it was formerly in *England*, and how the Queen found it. First, it will not be unfit to premiſe, [t] that from the Converſion of the *Saxons* to the year 1166. no hereſy was ever known to have been in *England*; inſomuch as we may ſafely conclude, whatever doctrine we meet with in the publick homilies of the Church, or other writers of elder times, muſt be eſteemed catholick, however it now ſtand cenſured: but in that year about xxx *Dutch* came hither, that deteſted baptiſme, the Euchariſt &c. who being convict by Scripture in an epiſcopall councell called by the King at *Oxford*, were remitted to his diſpoſition, that cauſed them to be whipt, and burnt in the face, and a command given none ſhould either receive or relieve them, ſo that they miſerably periſht: which ſeverity his Ma^ty did not think fit afterward to extend to thoſe were then called *Publicani*, as I have before [u] ſhew'd, though there were many in his dominions.

[t] Neubrigenſis *lib. 2. cap. 13.*

[u] *n. 7.*

24. For the puniſhment of Hereticks, it cannot be doubted by the common Law (that is the cuſtome of the Realm) of *England* to have been here, as in other parts of the world, by conſuming them by fire. [x] *Balæus*, from the teſtimony of a chronicle of *London*, reports one of the *Albigenſes* to have been ſo made away there 1210. to which the :: learned *Camden* ſeems to allude, when he ſayes more dyed in Queen *Maries* time, then this nation had ſeen *ex quo regnante Iohanne Chriſtiani in Chriſtianos apud nos flammis ſævire cœperunt*. The ſame *Paramo* ſaith is made good by an epiſtle of *Tho. Waldenſis* to *Martin* the 5. but I have not ſeen it; I am ſure in

[x] *De ſcript. Brit. Cent. 3. cap. 65. in Appendice.* :: *Apparat. Eliz.*

that *VValdenſis* I uſe it is not found. But of the truth of the thing there is no queſtion; for *y Bracton* writes of an Apoſtate Deacon, that in a Councell held at *Oxford* 1222. by *Stephen Langton* was firſt degraded, and then by the Lay committed to the fire: with whom for the thing agrees *z Fleta*; yet, by the way, where you read in him *per manum comburentur clericalem*, it is to be *Laicalem*, for ſo is *Bracton*, out of whom he tranſcribed it, agreeing with the continuall practiſe both of this and other nations; for the Clergy meddles not with execution.

y *Lib.* 3. *de corona cap.* 9. *n.* 2. *fol.* 124. a. Britton *cap.* 9.

z *Lib.* 1. *cap.* 29. *in fine, p.* 46.

25. In *Edward* the 3ds dayes, about the year 1347. a *Polydore Virgil* teſtifyes two *Franciſcans* to have been burnt, *quod de religione male ſentirent*. Neither did *VVilliam Sautry*, a relapſed prieſt, dye by any ſtatute-law 2. *H.* 4. but convicted in a provinciall councell of th' Archbiſhop of *Cant.* the writ *de hæretico comburendo*, bearing date the 26. *February*, was by th' advice of the Lords Temporall ſent to the *Major* of *London* to cauſe him be executed, b *attendentes*, ſayes it, *hujuſmodi hæreticos, ſic convictos & damnatos, juxta legem divinam, humanam, canonica inſtituta, & in hac parte conſuetudinaria, ignis incendio comburi debere* &c. But where c *VValſingham* ſpeaks as if he dyed during the ſitting of the Parliament, by vertue of d the law then made againſt hereticks, the hiſtorian is without peradventure miſtaken; for that Parliament, begun about the 20. *January*, ended the 10. *March* following, did expreſly provide, on the petition of the Commons, e *qe touz les eſtatutz & ordenances faitz ou affaire en ceſt Parliament qe ſont penalz, ne tiegnent lieu ne force devant le feſte de Pentecoſte prochin venant, les queles en le meſme temps puiſſent eſtre proclamez*: to which the anſwer is, *le Roy le voet*. So that certainly he could not dye by that law, which was not to take effect till ſo long after.

a *Hiſt. Angl. lib.* 19. *p.* 382, 39.

b Rot. Parl. 2. *Hen.* 4. *n.* 29.

c Ypodigma Neuſtriæ anno 1401. *p.* 158, 9

d 2. *Hen.* 4. *cap.* 15.

e Rot. Parl. 2. *Hen.* 4. *n.* 116.

26. But I confeſſe I did a little doubt of two particulars:

lars: The one, whether by the common Law a Lay man could be sent to the fire for any conviction by the Ecclesiastick; for all the undoubted precedents I have met with (unlesse that of the *Albigenses* were otherwise) were of some Clerks, within the pale of the Church, that were so punisht; and *Bracton* and *Fleta* both agree, *Clerici Apostatæ comburantur*; whose words being penall, I conceived *strictæ juris* not to be construed by equity. But indeed *Fleta* elsewhere speaks more generally, *Christiani Apostatæ* * *detrectari debent & comburi*; and [f] *Britton* of *Miscreants* so to be served, without distinction of the quality; with whom *Sr Edward Cook* concurs. Another thing I questioned, whether any Bishop within his Diocese alone could convict one of heresy before 2. *Hen.* 4. cap. 15. (of which hereafter:) for whatever the power of the Ordinary was, there is very little example of his putting it in exercise before the times of *Wickliff*.

* I read it detrectari, not as the print, detractari.

[f] Cap. 9. fol. 16. b.

27. Who began to be taken notice of about the end of *Edward* the 3. or rather the beginning of *Rich.* the 2. in whose doctrine, at least that they fathered on him, though there were good Corn, yet was it not without Tares. But when it grew common, and to be hearkned unto, the Prelats laboured to procure [g] a law, his Maties Commissions should be directed to the Sheriffs and other his Ministers, *to arrest all preachers, their fautors* &c. *to hold them in prison, till they will justifi themselves according to reason, and the lawes of the holy Church*. How this past I should be glad to learn; for not onely [h] the printed statutes, but [i] the Roll of Parlt expresly mentions the Commons agreeing to those Acts, yet the next meeting they do disclaim to have given any assent unto it, *quiel ne fust unqes assentu ne grante par les coës, mes ce qe fust parle de ce fust sanz assent, de lour qe celuy estatut soit annienti:* to which the Kings answer is, *y pleist au Roy*. How it fell out this latter was not counted an Act, [k] Sr *Edward Cook*

[g] 5. *Ric.* 2. cap. 5. *stat.* 2.

[h] 5. *Ric.* 2. cap. 1.

[i] *Rot. Parl. lendemain Iehan port Latin.* 5. *Ric.* 2. *n.* 13.

[k] *Rot. Parl. Octaves St. Michel.* 6. *Ric.* 2. *n.* 52. Cook *Inst.* 3. *p.* 41.

Cook hath shew'd, which tells us why it past again without opposition in [l] Queen *Maries* dayes. I wish that learned Gentleman had given his opinion how the record came to be so faulty, as to affirme a concurrence of the lower House to that they never assented.

[l] 1 & 2. P. & M. cap. 6.

28. In King *Hen.* the 4[ths] time his successour, that [m] law past, which greatly increased the power of the Ordinary, *allowing him to imprison, fine, determine all causes of heresy, according to the canonicall Decrees, within three moneths:* on which words Canonicall Sanctions the Bishops so behaved themselves, [n] *That the most learned man of the realm, diligently lying in wait upon himself, could not eschue and avoid the same act and Canonicall Sanctions, if he should be examined upon such captious interrogatories as is and hath been accustomed to be ministred by the Ordinaries of this realm, in cases where they will suspect of heresy* &c. Upon which, if any did refuse obedience to his *Diocesan* in ought, [o] as *paying a legacy* &c. there would be means found to bring him within the suspicion of heresy. And certainly the proceeding of some Diocesans upon this statute gave quickly scandall: for onely nine yeares after, we find the Commons petition, [·.·] *qe please a nre soveraigne Seigr le Roy grantier, qe si ascun soit ou serra arreste par force de l' estatute fait l' an de vostre regne seconde, al requeste des Prelats & Clergie de vostre Royalme d'* Engleterre, *q'il purra estre lesse a mainprise, & faire sa purgation franchement sanz destourbance d' ascun en mesme le Conte ou il est arrestu, & qe tieles arrestes soient desore en avant faitz en due forme de ley, par les Viscount, Mairs, Baillifs ou Conestables nostre Seign' le Roy, sanz violent affray, our force & armes, en depredation de leur biens, ou autre extortion ou injurye queconcque en celle affaire.* But to this, *le Roy se voet ent aviser* is all the answer given. But whereas [·.·] *VValsingham* speaks of this Parlnt. as infected with *Lollardy*, certainly to me there is no such thing appeares in the Roll, but rather the contrary. But I confesse

n 25 Hen. 8. cap. 14.

o Cook Instit. 3. cap. 5. p. 42.

·.· Rot. Parl. 11. Hen. 4. n. 29.

·.· Walsing. Anno 1410. p. 422.

confeſſe I did think before that law of *H.* 4. no Biſhop in his Dioceſe, without a Provinciall Councell, could have convicted any man of hereſy, ſo as to have cauſed him been burnt; for mans life being a point of ſo high concernment in the law, and hereſy laying ſo great an imputation on the party, it ſeemed not to me probable, every angry Biſhop in his Court ſhould alone have power of determining what was by the canonicall Sanctions ſo eſteemed, and whoſe words or writings could admit no other ſenſe then hereticall: and with this it ſeemed to me the practice did concur, for the Deacon burnt at *Oxford* ſuffered after conviction in a Provinciall Synod; and the conviction of *William Sautry* ſhewes plainly to have been after the ſame manner, p the Writ running, *Cum venerabilis pater* Thomas &c. *de conſenſu & aſſenſu, ac conſilio coepiſcoporum, ac confratrum ſuffraganeorum ſuorum, nec non totius cleri Provinciæ ſuæ, in concilio ſuo provinciali congregato, juris ordine in hac parte requiſito in omnibus obſervato* &c. intimating (as it ſeemed to me) if otherwiſe, the Order of law had not been obſerved. And I did ever conceive this Law had increaſed the Power of the Ordinary, as well in permitting him ſingly to purſue the *canonicall Sanctions* in convicting an heretick, as in fining and impriſoning of him; eſpecially the ſtatute 9 of Q. *Mary*, that gave it life after the repeal of *Hen.* the 8, affirming, *before ſuch revivall the Ordinary did want auctority to proceed againſt thoſe that were infected with Hereſy.* But I have ſince found, better opinion it was otherwiſe.

p Rot. Parl. 2. Hen. 4. n. 29.

q 1 & 2. P. & M. cap. 6.

r Cook Inſt. 3. cap. 5. p. 39.

29. After this 2. *Hen.* 5. f a Parliament at *Leiceſter* enacted, *The* Chancellour, Treaſurer, Juſtices *of the peace*, Sheriffs, &c. *ſhould take an Oath for deſtroying all manner of Hereſies, commonly called* Lollardries, *to be aſſiſtant to the* Ordinary *therein*; *Perſons convict of Hereſy to looſe their fee-ſimple land*; *Iuſtices of the Kings* Bench, *of the* Peace *and of* Aſſize, *to enquire of all holding any errours or hereſies*

f Stat. 2. Hen. 5. cap. 7.

heresies as Lollards, *their maintainers, receivers, fautors*, &c. *and for that end a clause to be put into the* Commissions *of* Iustice *of the* Peace: *yet forasmuch as the cognizance of heresie, errours, and* Lollardries *belonged to Iudges of holy Church, and not to the secular, the inditement taken by them not to be evidence, but for information before the spirituall Iudge, into whose hands the person suspected to be delivered within ten dayes after his enditement; every man empanell'd in the Enquest for the tryall of them to have in* England *5 pounds, in* Wales *forty shillings in land by the year* &c. Which three lawes were each repealed by *Hen.* the 8th or *Ed.* the 6. and again restored by Q. *Mary*, under whom, by vertue of them, had in lesse then three yeares been spoyled for religion more Christian bloud of her subjects, then in any Princes reign since *Lucius*.

30. Things standing thus when Queen *Elizabeth* came to the Crown, the Ecclesiastick auctority exercised at home and abroad with rigour and austerity, rather then Christian mildnesse; still to permit that, was the continuing a fire to consume her people, and yet for every one to think and do without controule what him list, was to let loose all reins of government, to leave open a door for sedition to disquiet her Kingdome, and the Commonwealth perhaps not to be ever in peace: her Maty therefore took a middle way to agree with the primitive times, and yet not let every profane humor disturb the Church, by [t] erecting a Court with power *to visit, reform, redresse, order, correct and amend all such errours, heresies, schismes* &c. *which by any spirituall or ecclesiasticall power, authority, or jurisdiction can or may lawfully be reformed, ordered, redressed, corrected, restrained or amended*; yet restraining them from adjudging any thing to be heresy, that had not been heretofore adjudged such *by the plain words of the canonicall Scriptures, or by any one of the first four generall Councells, or by any other generall*

[t] *Stat.* 1. *Eliz. cap.* 1.

generall Councell, wherein the ſame was declared hereſy by the expreſſe and plain words of the canonicall ſcripture, or that ſhould hereafter by the Parliament with the aſſent of the Convocation &c.

From whence ariſeth a queſtion of ſome intricacie, how it came to paſſe thoſe times ſpake with ſo great ſubmiſſion to the four firſt generall Councells, and yet ſo reſtrained the other, without expreſſing which they were, nor any other particular concerning them. For the ſolution of which, we are to know, thoſe have been ever looked on by the Catholick Church with more reverence then any other that ever yet were held. The [u] Emperour *Iuſtinian* 541. declared which they were, and that he did receive *earum dogmata ſicut ſanctas ſcripturas, & regulas ſicut leges obſervamus*; who made not the like mention of the fifth, though [x] called by him, and held in his time. Neither did *Gregory* the great, who did reverence them, [y] *ſicut ſancti Evangelii quatuor libros*, make the ſame eſteem of the fifth; for having made honourable mention of it in a letter to a Queen of *Lombardy*, ſent by a Biſhop of *Milan*, the Biſhop gave it her not, on an opinion ſhe might be ſcandalized at his naming of it: upon which [z] S^t. *Gregory* ſent him word he did well, and in that altered his epiſtle. And the year following, *viz.* 596, ∴ the People of *Ravenna* oppoſing one *Maximianus* in being their Biſhop, as not of ſound belief, in that he did not carry ſo great veneration to the Councell of *Chalcedon*, he doth aſſure them of the contrary, that he did receive thoſe four Councells, but makes no mention of the fifth. I do not deny but [a] the faith of the fifth and ſixth were by this Church approved, yet never any of them had that great reverence yielded their dictats the firſt four had, which are therefore ſaid to have been [b] *Synodi firmiſſimæ* by *Elfrick*, in his Canons to *VVulfin*.

32. But theſe, however of this high eſteem, yet had not the name of generall appropriated unto them till

u *Novel.* 131. *cap.* 1. & *in Cod. de ſumma trinitate & fide Catholica leg.* 9.

x *Concil. gen. Romæ, to.* 2. *p.* 524, *col.* 1. E.

y *Gregor. lib.* 1. *epiſt.* 24.

z Gregor. *lib.* 3. *epiſt.* 37. ∴ *Lib.* 5. *Indict.* 14 *epiſt.* 2.

a Beda *lib.* 4. *cap.* 17. *Concil. Calcuth. cap.* 1. *apud* Spelm. *p.* 295.

b *Canones Ælfrici ad Wulfinum apud* Spelman. *Concil. Tom.* 33. *p.* 581. *vide* Egberti *Archiepiſc. de ſacerdotali jure cap.* 4. *ibid. p.* 278.

long after; for certainly that distinction was not suddenly brought into the Church, at least in that sense it is now taken, many Synods by our writers being styled generall, to which yet th'obligation was never of that nature, as if they did not or could not erre. [c] *Eadmerus* writes, *Anselm* told *William* the 2, *generale concilium Episcoporum ex quo Rex factus fuisti non fuit in* Anglia *celebratum*: and the like phrase is used very frequently for *English* councells not onely in him, but in our other eldest and best historians, as [d] *Flor. Wigornienſis*, [e] *Simeon Dunelmenſis*, [f] *Huntington*, & *Gervaſ. Dorobernenſis*, [h] *Hoveden*, &c. [i] *Mat. Paris* speaking of a councell held at *Weſtminſter* 1175. calls it *Concilium generale*, which in [k] *Diceto* is changed to *Concilium Regionale*, and in the margin added (out of the Mss. copy sometimes belonging to St *Albans*, and now at Saint *Iames*'s, (the best and fairest I ever saw) and which I conceive *Mat. Paris* himself used) *ſolius Papæ eſt concilium generale*, Romanæ *eccleſiæ &* Constantinopolitanæ *eſt concilium univerſale*: which I know not how he will make good, having [l] the 3^d and 4th Councell of *Carthage*, [m] and one held there 403. the Councell [n] of *Matiſcon* and others to contest with, which being no other then particular, as we now esteem them, have in their acts the titles of being universall Councells. So the 4th Councell [o] of *Toledo* is said to have been generall; as by *Eymericus* a [p] Councell in *Tarragona*.

33. Now of such as have been so called, it is manifest the value set on them is altogether vanisht, and was so long since. [q] *Malmsbury* records, the Councells held by *Anſelm* were in his time become *obſoleta*, their credit lost: and so we may say of the rest, for [r] *Lyndwood* is very clear no *English* Councells oblige this Church, before 1222. *Stephen Langton* held one at *Oxford*. As for those which the Popes called as *Patriarchs* of the West, which *Diceto* conceives were properly generall, the rite of

c p. 24, 7.
d *Anno* 1044. p. 405.
e *Anno eod. fol.* 180, 23.
f Hunt. *fol.* 226, b. 3.
g Ger. Dor. *col.* 1369, 62.
h Hoved. *Anno* 1044. *fol.* 252, a. 35. *Anno* 1200. *fol.* 458, b. 18.
i *Hiſt. minori & majori*, p. 131. 19.
k Diceto *col.* 585, 63.
l To. 1. *Concil. Con. Carth.* 3. *cap.* 7. *concil.* 4. *in proœm.*
m *Ibid. Honor. Auguſto & Fumoridо Coſſ.*
n Tom. 2. *Concil. Crab. c.* 20.
o *Ibid. in proœmio.*
p *Directat. par.* 2. *queſt.* 56. *in fine p.*
q *De vit. Pont. in Anſelmo. fol.* 129, b. 30.
r *De pœnis, cap. ad hæc, verbo minime admittantur.*

of former times was, never to send hence more then four Bishops unto them; which when it came in question 1179. [f] *Episcopi* Angliæ *constanter asseruerunt, quod ad generale concilium Dom. Papæ quatuor Episcopi de* Anglia *tantum* Romam *mittendi sunt*: which is so full a testimony of his having no absolute power over our Bishops, not so much as to cause them meet in councell, as there cannot well be a greater; and therefore when he imposed the oath (of [t] which before) on them, one clause was, *Vocatus ad Synodum veniam, nisi præpeditus fuero canonica præpeditione*. Yet in after Ages the going thither did onely remain at the Princes pleasure, [u] who gave them auctority *consentiendi, & si opus fuerit, dissentiendi his quæ juxta deliberationem dicti concilii inibi statui & ordinari contigerit*. All which I have spoke of generall Councells, that the Reader may know, when he meets that phrase in any author, he is not necessarily to conclude him to have conceived an obligation of following whatever they said, nor that he held it to have been void of Errour; for it is unquestionable, they and we give the name to such Synods as were esteemed full of imperfections, far from that freedome ought to be in *Generall Councells*, to whose Canons they did not hold themselves tyed.

[f] Hoveden fol. 332. a. 55.

[t] Cap. 3. n. 50, 51.

[u] *Vide* Seld. *ad* Eadmer. p. 214. *ex Archivis protestatem commissam Ambasciatoribus ad interesend. concilio Basilien.*

34. But because in these cases examples of former times do more convince mens judgements, then present affirmations, to give some instances, not of other then of such as have been [x] lately printed, and with that title, at *Rome*; as the Councell of *Vienna* 1311. which by ∴ *Gisburnensis*, who lived about that time, is noted to have been nothing lesse then a free Councell: the book is not printed, I will give you the whole therefore as I find it in him.

[x] 1608 & 1612. *Rom.* ∴ Gualterus Hemingford *Gisburnensis.*

Dominus Papa Clemens *tenuit concilium suum* Viennæ *Anno Dom.* Mcccxi. *primo die mensis* Octobris: *in quo quidem concilio tres fecit sessiones.*

I. In prima seſsione, facto ſermone, expoſuit Clero tres articulos ſuper quibus erat principaliter tractandum, & conſulendum; ſuper negotio terræ ſanctæ, quomodo poſſet recuperari & tueri, & ſuper ordine Templariorum, qui pro nullo habebatur; præcepitque omnibus Prælatis, & ſingulis qui convenerant, quod ſuper præmiſsis articulis uſque ad ſecundam ſeſsionem deliberarent.

II. In ſecunda ſeſsione facta eſt longa diſputatio de ordine Templariorum, *utrum ſtare poſſet, vel deleri de jure deberet. Et erant pro ordine* Templariorum *prælati quaſi omnes, præter prælatos* Franciæ, *qui propter timorem Regis* Franciæ (*per quem, ut dicebatur, totum illud ſcandalum fuerat*) *aliud facere non audebant. Erant in toto Concilio* (quod Concilium dici non merebatur, quia ex capite proprio omnia fecit Dominus Papa, non reſpondente neque conſentiente ſacro Concilio) *baculi paſtorales circa cxxx.*

III. In tertia ſeſsione Dominus Papa [ſedit] *pro tribunali, & ab uno latere Rex Franciæ, ab altero Rex Navarniæ filius ejus: ſurrexit que quidem Clericus, & inhibuit ſub pœna excommunicationis majoris, ne aliquis loqueretur verbum in concilio, niſi licentiatus vel requiſitus à Papa. Recitatoque proceſſu* Templariorum, *adjecit Papa,* Quod licet ex proceſſu præhabito ipſum Ordinem de jure delere non poſſet, tamen ex plenitudine poteſtatis Ordinem delevit, nomen & habitum, terras eorum & poſſeſſiones *Hoſpitalariis* conferendo, aggregando, & uniendo.

35. The like may be ſaid of the Councel of *Lateran* under *Innocentius* 3. in which there was onely *recitata* (as what the Pope had before concluded on) *capitula y lx, quæ aliis placabilia, aliis videbantur oneroſa*, &c. Which with the great extortion then exerciſed on the prelats appeared in it, the little credit it gained in *England*, might juſtly cauſe † th' *Antiquitates Britannicæ Eccleſiæ* write it to end *in riſum & ſcomma*: which words are none of *Mat. Paris*, but of the auctors; though the marginall

y Sic Mat. Paris *Anno* 1215. *p.* 272, 26. *lege tamen* capitula lxx. 2. p. 151, 19. *edit. Lond.*

ginall note againſt them in [a] the edition of *Hana* 1605. hath given an occaſion of miſtake, which ſhould have been placed five lines lower, as it is in that * of *London* 1572. for that he there ſpeaks of the prelats borrowing to ſatisfy the papall avarice, is as Archbiſhop *Parker*, or whoſoever elſe compoſed thoſe lives, thus delivered in [b] Hiſtoria minori; *Tunc autem temporis ſolutum eſt concilium generale: Papa vero prælatis petentibus licentiam repatriandi minime conceſsit, immo à ſingulis auxilium in pecunia poſtulavit, quam receſſuri cum viaticis cogebantur à Mercatoribus curiæ* Romanæ *duris conditionibus mutuare, & ſic cum benedictione papali ad propria remearunt ---- per idem tempus inſtante feſto Paſchali,* &c.

[a] p. 158, 47.

* p. 151, 23.

[b] Mat. Paris. *hiſt. minor. Mſ.* p. 172. & fol. 86. *ſive* 89. col. 2. *Anno* 1216. *Vide Abbatum vitas pag.* 117, 39, 43.

36. This I have the rather tranſcribed, becauſe ſome are of opinion that Councell ended 1215; which certainly it did not till towards Eaſter the year following; and then too abruptly, the Pope called away on a ſuddain for appeaſing the wars growing in *Italy*, the 16 July 1216. dyed: which makes it without either time when it began or ended, nothing being fully concluded but th' expedition againſt the Sarazins, for the recovery of the Holy land. Of this I have made the more particular mention, for that having given advertiſement of it to Doctor *Wats* (who hath with great ſincerity and judgment put out *Mat. Paris,*) that he might clear the Archbiſhop in his *Adverſariis*, I know not by what fate he applies his note to pag. 138, 5. which referrs to the Councell held there by *Alexander* the 3. 1179. when it ſhould have been to pag. 272. or pag. 274. 6. and thinks he called the lives of the Abbots the *Hiſtoria minor*; who I am perſwaded * never ſaw that book, but did write candidly what he found in *Hiſtoria minori.*

* See the preface to Mat. Weſt. pag. 5.

37. But that this Councell was never received generally here is manifeſt, in that divers Canons in it were not of force in *England*, as the 3, the 41, the 46, to which I may adde the very firſt; for though [c] *Peckham* 66 years

[c] Lyndwood, de ſumma Trinitate & fide Catholicâ, *cap. Altiſſimus.*

after did make a constitution in that point; yet he did, to my understanding, not speak of Christs presence in the Eucharist so grossely, nor determine it to be by Transubstantiation, as the first chapter of the other doth: but of that hereafter. And whosoever shall peruse [d] *Simon Sudburies* constitutions 1378 touching confession, will find so much variation from the 21 chapter of that Synod, as he cannot think he took that for a rule not to be varied from. To which I may adde, that [e] *Peckham* provides the punishment of the negligent conserver of the holy Sacrament to be *secundum regulam concilii generalis*, meaning the 20th chapter of this I speak of; which had it been of force otherwise, he had no doubt commanded the due observance of it, not by his command added strength to the rule there given. It is true, *Stephen Langton*, to ingratiate himself with *Rome* (whom he had so much displeased, as [f] the Pope intended to remove him from his Archbishoprick on the Kings desire, but stopt on the intercession of the Court, and his being a Cardinall) did at the end of his Synod at *Oxford* 1222 enjoyn the Councell [*] of *Lateran* held under Pope *Innocent*, in the paying of Tythes and other litigious * causes, to be observed, *& in Synodis episcopalibus constitutiones illius concilii, una cum istis, prout videbitur expedire,* [*exponi volumus & recitari:*] which last words *Binius* hath changed, I know not on what auctority, to *volumus observari*, when questionlesse th' English took them for advise, not a precept: and their little regard of them appears by the particulars mentioned. Neither doth *Lyndwood* make any mention of this part, though he have, I think, all the rest were agreed there: & is it self altogether omitted in some old copies of that Councel I have seen; one

l.

d ibid. *de penitentiis & remissionibus.*

e *De custodia Eucharist. cap. 2.*

f Mat. Paris *Hist. minor. Anno* 1216. § Barones, p. 172. col. 2.

[*] *Which Councell of Lateran this was, is uncertain, whether that under Innocentius 2. or this by Innocentius 3. but most likely that under Innocent 3. at which himself was present.*

* *Binius reads,* & aliis capitulis, *thereby adding strength to every chapter of that Councell:*

when certain the reading should be, according to ancient copies, in præstatione Decimarum & aliis causis, *referring onely to what past there touching Tythes, and the payment of them by the Cistertian order, for land acquired after that time, which severall Acts of Parl. confirmed afterwards. As for the other constitutions there propounded, he after gives the rule with what caution they were to be expounded and recited, as they should be held expedient, and not otherwise.*

one of which is joyned with the Mſs. Annals of *Burton* Abby in Sr *Thomas Cottons* Library. But the Acts of this Councell being, with divers others, printed at the end of the conſtitutions of *Otho* and *Othobon* at *Paris* 1504, and ſince by *Binius* transferred into his third tome the ſecond part, this is alledged by ſome men, as if what paſt at *Lateran* had been of undoubted validity with us; when no queſtion, what was done there hath never been taken here as the decrees of a generall Councell, like that of *Nice* or &c. but of *Innocentius* 3us, as they ſtand in the Decretalls (compiled by *Gregory* the 9th his Nephew) with this title, *Innocentius* 3. *in Concilio Lateranenſi*, as thoſe by him propounded, but not fully concluded in councell, according to *Platina*, and from which this Church varied as occaſion ſerved. Yet if any ſhall inſiſt this concluſion of 1222. to have been of greater validity then I ſpeak, I muſt adde, that if it really were made with ſuch an intent by the Eccleſiaſticks, it cannot be thought to have obliged us more then that declaration of the Biſhops 1615 did the *French*; who 8 having *meurement delibere ſur la publication du concile de* Trente, *ont unanimẽt recognu & declarè, & recognoiſſent & declarent, eſtre obligez par leur devoir, & conſcience, a recevoir, come de fait ils ont receu & recoivent, le dit conile, & promettent l'obſerver entant qu'ils peuvent par leurs fonctions, & auctorite ſpirituele, & paſtorele*, and cauſed the ſame to be printed. Yet that of *Trent* had never validity in *France*, nor the other in *England*, notwithſtanding what thus paſt the Clergy.

g *Preuves des libertes de l'Egliſe de France p.* 325.

38. Neither was that other Councell of *Lateran* under *Innocentius* 2. ever received here: though the Pope there h *inſignem ſacrorum Decretorum textum congeſſit*, yet *nimis abundans per univerſum orbem nequitia terrigenarum corda contra eccleſiaſtica ſcita obduravit*; from whence it proceeded, that when they were divulged they did no good, *quoniam à principibus & optimatibus regno-*

h Ordericus Vitalis *lib.* 13. *p.* 919. *B.*

regnorum, cum subjectis plebibus, parvi pensa sunt. Now that it was never received here appears, (besides this testimony) in that the marriage of a professed Nun was [i] adjudged valid, contrary to the 7. Canon of it, and that too after it was registred in the [k] Canon Law: which shews, this Church did neither admit the Canons of forreign Councells, nor the Canon Law it self to alter their ancient customes; as is farther manifest by the statute of *Merton* cap. 9. Neither was the Councell of *Sardis* ever allowed in *England*, as is manifest by what before of Appeals, which yet by the Capitulars of [1] *Charls* the great and *Ludovicus Pius* was even in that particular in *France*; which made [2] S^t. *Bernard* write of them, *in multas posse eas devenire perniciem, si non summo* [*moderamine actitentur*: *Appellatur de toto mundo ad te*] *id quidem* &c. for so the place is to be read, as I have seen in two very good Mss, and one late printed, not as in the former editions of him, as at *Paris* 1586. By these precedents the Reader may judge how necessary it was for the Parliament to make a distinction of Councells. Now in these, with sundry of as doubtfull credit, being of late [l] printed at *Rome*, as if they were of equall value with the first, I have thought fit to instance. And here having made mention of *receiving Councells*, as if that added strength unto them, it will be necessary to say something of that too, for the fuller clearing of this Church.

i Regist. Istep. fol. 166. b.

k *Apud* Gratian. *caus.* 27. *q.* 1. *cap.* 40.

1 *Carol.* & *Lud. Capit. lib.* 7. *cap.* 323.

2 Bern. *de consideratione ad* Eugenium, *lib.* 3. *cap.* 2.

l Concil. gen. Rome, 1608, 1612.

39. The Apostles as they shewed a pattern for [m] holding Councells to settle disputes amongst Christians; so *Paul* and *Silas* in their travells delivering the [n] Decrees by them ordained to be kept by severall Churches, shew'd it to be reasonable, such as were absent should receive what was done in any Synod, before they were obliged by it; and accordingly, in the primitive times, those were not present at the holding a synod, had the results sent or brought unto them after the conclusion taken, who did in their own Churches subscribe (finding

m *Acts* the xv.

n *Acts* xvi, 4.

ing them juſt and pious) what the others had in Councell agreed upon, and then repoſed them amongſt their Records, called by St *Hierom* [o] *Scrinia publica, Eccleſiarum arcæ* &c. So [p] *Cecilian*, being preſent at *Nice*, brought to *Carthage* the Decrees there concluded, who ſubmitted unto them; and [q] S. *Athanaſius* of that Councell ſayes, *Huic Concilio univerſus orbis aſſenſum præbuit; & quanquam multæ habitæ ſunt Synodi, hujus tamen omnes ſunt memores, tum per* Dalmatiam, Dardaniam, *aliaſq; inſulas*, Siciliam, *&c. & pleriq; in* Arabia *hanc agnoverunt, & ſubſcriptione approbarunt*, &c. And of the [r] Councell at *Sardis* it is recorded, Ὅσιος ἐπισκοπος ἔγραψε, καὶ οἱ λοιποὶ πάντες· ταῦτα γράψαντα ἐν τῇ Σαρδικῇ σύνοδῳ ἀπόντες καὶ οἱ μὴ δυνηθέντες ἀπαντῆσαι, καὶ γενόμενοι καὶ αὐτοὶ σύμψηφοι τοῖς κριθεῖσι τοῖς ἐν τῇ συνόδῳ γραφεῖσιν· καὶ τὰ ἄλλα τὰ ὑπομνηθέντα ἐστὶ ταῦτα. which I *Engliſh* thus; Oſius *the Biſhop ſubſcribed, and ſo did the reſt. Theſe things being copied out, the Synod in* Sardis *ſent to thoſe could not be preſent, who were of the ſame mind with what had been determined of thoſe ſubſcribed in the Synod; and of the other Biſhops theſe are the names.*

40. After which [s] *Athanaſius* (from whom this epiſtle is taken) adds, *qui igitur decretis ſubſcripſerunt ſunt iſti* —— *in univerſum* 344. Hence it grew, that though ſome Councells had but few at the holding of them, yet the ſubſcriptions were numerous. [t] *Baronius* obſerves the 5th Councell of *Carthage* to have been held by 22 onely, (I conceive it ſhould be 72.) yet had 217. ſubſcribers, which was after the ending of it, by Biſhops in their own Churches, when they admitted of it. So the [u] Synod of *Antioch* about 341. ſending their concluſions to abſent Churches, writ unto them, they did believe they would aſſent to what they had done, *et ea quæ viſa ſunt recta roborantes cum conſenſu ſancti Spiritus conſignabitis.* It is of no uſe to diſpute here, whether this were an *Arrian* or a Catholick Councell: be it either, it ſtill denotes the manner then uſed; as doth the [x] third Coun-

o Hieron. *adverſus Lucifer.* to. 2. fol. 52. a. Paris 1534.

p Con. 6. Carthag. cap. 9.

q Epiſt. ad Aphros *interprete* Petro Nannio. Paris 1572. col. 537. c.

r Concil. gen. p. 64. c.

s Epiſt. ad Ægyptios &c. col. 424. a. b.

t Tom. 5. anno 419. n. 59.

u Concil. Antioch. to. 1. Concil. in proœm.

x Concil. Toletan. 3. §. Confitemur. tom. concil. 2.

cell of *Toledo* held *Anno* 589. which speaks thus, *Constitutiones sanctorum conciliorum*, Niceni, Ephesini, Constantinopolitani *vel* Chalcedonensis, *quas gratissima aure audivimus, & consensione nostra veras esse probavimus, de toto corde & de tota anima & de tota mente nostra subscripsimus:* and another held there, having received with the letters of Pope *Leo* the 2. the sixth generall Councell, invited all the Prelats * of *Spain*, *ut pradicta synodalia instituta quæ miserat, nostri etiam vigoris manerent auctoritate suffulta, omnibusque per nos sub regno* Hispaniæ *consistentibus patescerent divulganda.*

* Baron. to. 8. Anno 685. n. 25.

41. By all this it is plain, the manner of former times was to disperse the Decrees of Councells to absent Churches, who by subscriptions were said to have confirmed, and, so far as lay in them, by suffrage, to have given strength to that such meetings had agreed unto. And as Popes did thus confirme what other Bishops had concluded in their Synods, so did they in like manner his. In the year 1095. *Vrban* the 2. held a Councell at *Clermont* in *Auvergne*, at which were present severall Prelats of *Normandy*, who at their return brought letters from the Synod, upon which *VVilliam* Archbishop of *Roan* caused the *Norman* Bishops to meet there, † who *capitula Synodi quæ apud* Clarum-montem *facta est unanimiter contemplati sunt, scita quoque Apostolica confirmaverunt.* It is true, the Pope being the Patriarch of most note in the world, and of greatest dignity in the West, usually the Acts of forraign Councells were directed unto him, ‡ which he dispersed through *Italy* and other parts of *Europe*; but his approbation was not enough to oblige other Churches, till what came from him was by themselves allowed: neither was this dispersing so appropriated to his Papacy, as if there were never any other divulging of them; the second Councell of *Nice* held 787, or 788 as *Diceto* accounts, was sent from *Constantinople* to *Charls* the great, then

† Ordericus Vitalis *lib.* 9. *p.* 721. B.

‡ *Vide* Euseb. Mediolanens. *post epist.* 52. Leonis.

then onely *Rex Francorum*, and by him 792. hither; where it was rejected.

42. From hence it proceeded, that part of the Acts of one Councell did not bind ſome Churches, which did others; as ſome parts of the Councell of *Chalcedon* and *Epheſus* ſeem not to have been received in *Rome* in [a] S. *Gregories* time, to which may be added ſome [b] Canons of the 7th Councell. But I believe it will be hardly ſhewed from the ancients, that any Church, neither intervening in Councell by proxy, nor that did after admit of it, were ever held concluded by any, though never ſo numerous. Certainly none was ever held of greater eſteem amongſt Catholicks then the Councel of *Nice*; yet [c] S. *Auguſtine*, in his diſpute with an *Arrian*, confeſſes neither the Councell of *Nice* ought to prejudice the *Arrian*, nor that held at *Ariminum* him, *ſed utriſque communibus teſtibus, res cum re, cauſa cum cauſa, ratio cum ratione concertet.* And [c] St. *Hilary*, comparing two Councells, one of 80. Biſhops which refuſed the word ὁμοούσιον, with that of *Nice* which received it, ſayes, *ſi contraria invicem ſenſerunt, debemus quaſi judices probare meliora:* ſo not onely taking from them all infallibility, but allowing others to judge of their doings, before they ſubmitted unto their determinations.

a Gregor. *lib. 6. epiſt. 31. & lib. 7. epiſt. 47. Indict. 2.*

b *General. Concil. Rom. tom. 2. p. 684, 685. in margine.*

c *contra Maximinum Arrianorum epiſt. lib. 3. cap. 14. to. 6. vide etiam de unitate Eccleſ. cap. 16. to. 7.*

c *De Synodis adverſus Arrianos prope finem p. 243.*

And this hath been the ſo conſtant obſervance in all times, as no age ever held the *Latin* obliged by the *Grecian* Synods which they have not received; neither doth the *Greek* Church to this day hold themſelves tyed by the determinations of *Florence*, or to the many other of the *Latin* touching the proceſſion of the holy Ghoſt, and other points in difference, to which they have not ſubmitted.

43. But for that the Acts of Councells, without temporall auctority to inforce the obſervance of them, were no other then perſuaſive, Princes (either on the incitation of their Biſhops, or convinced of the juſtneſſe and piety of what had paſt in thoſe Eccleſiaſtick Aſſemblies)

did often by their letters exhort, or by their laws command the observance of what resulted from them. So *Constantine*, after the Councell of *Nice*, wrote that letter remains recorded in [d] *Socrates* and *Theodoret* to some absent Churches, for their admitting the resolutions of it: in which he tells them he had undertook that what the Romans had already, ἀσμένως τοῦτο καὶ ἡ ὑμετέρα προσδέξηται συνέσις, *that their judgment would willingly receive.* [e] And *Gratian, Valentinian, Theodosius* did in the year 381. by their rescripts establish the same Councell, as [f] *Iustinian* by the law before mentioned did all the four first; which I take to be the same * St *Augustin* calls inserting them *actis proconsularibus*.

d Socrat. *lib.* 1. *cap.* 6. Theodor. *lib.* 1. *cap.* 10.

e *Cod. Theodos. de fide Cathol. leg.* 3. *& de Hæret. leg.* 6.

f *n.* 31.

* *To.* 8. *in Psal.* 57.

44. Of later times Popes, having by severall arts acquired the greatest part of Episcopall power to be devolved to them, have likewise claimed it as a right belonging to the Papacy, not onely to call Councels, but to determine which are generall, who are to vote in them; and therefore [g] though properly, *ordinarie*, none but Bishops have there (say they) *jus suffragii*, yet *ex privilegio & consuetudine* Cardinalls, Abbats, and Generalls of Orders are to be allowed voice; and that there needs no other then the Popes confirmation in *Rome*, to oblige all Christians to the observance of any he shall hold out for such, as *Pius* 4tus by his bull of the 18 Iuly 1564. declared, all in the Councell of *Trent juris positivi* did the world from the first of *May* before, &c. And though all History agree, and the very Councells themselves assure us, the causing the *East* and *West* to meet in those assemblies, to have been ever done by Emperours, and that Princes on occasions have called the Clergy within their estates together for composing disputes in religion; yet the bare affirmation, without any real proof, hath so far prevailed with some men, as to esteem him little other then an heretick shall maintain the contrary.

g Bellarm. *de concil. lib.* 1. *cap.* 15. §. *At Catholicorum.*

45. But

45. But Kings have not ſo eaſily parted with theſe rights: for the State of *France*, notwithſtanding the many ſollicitations of Popes from abroad, and their Clergy at home, hath not hitherto been induced to approve what was determined at *Trent*; however you ſhall hardly meet with any of the *Roman* party, but he will tell you that the points of faith there agreed upon, are received in *France*, but not of manners, and government: which is in a kind true, yet contains a notable fallacy; for the Eccleſiaſticks of that kingdom finding the difficulty of procuring that Councell to paſſe, have in their provincial Synods, [h] *conſpiratione quadam, venia in quaque Diœceſi cogendi Synodos impetrata*, inſerted the greateſt part of the doctrinall points of it into thoſe Councells; ſo that it is truth, they are indeed there received, yet not for that they were concluded upon in *Trent*, but becauſe Epiſcopall Councells have each in their Dioceſes eſtabliſht what they could perſwade *nec regibus, nec ſupremis Parlamentorum curiis, ut Synodi iſtius* Canones *in acta ſua referrent, & obſervandos publicarent*. Neither hath the Councell of *Florence* under *Eugenius* 4^tus^, or of *Lateran* held by *Julius* the 2. and *Leo* the 10, been hitherto allowed by *France*, or *England*, where the moſt zealouſly affected to *Rome*, as Sr *Thomas Moore*, have [i] maintained the ſuperiority of a generall Councell above the Pope [k] in oppoſition to either of them; though [l] that be a point rather of faith then manners. Upon which grounds, thoſe Councells before ſpoken of did not bind here, farther then what was in them hath been made good by provinciall Synods within the Nation.

By all which it being certain, neither this Church nor Kingdom hath ever been tyed by the Acts of any forraign councell not admitted here, and being perhaps a thing of ſome intricacy, what determinations the Realm had received after the four firſt generall Councells, her Majeſty took the way of receiving them as abſolutely neceſſary,

h Bochellius *inſtituti operis ratio.*

i *See his letter to Cromwell at the end of his works, and the originall in* Sr Thom. Cottons *Library.*

k *Concil. Florent. Seſſ. 25. Concil. gen. Rome tom. 4. p. 584. ibid. Concil. Later. ſub Iulio 2. & Leone 10. Seſſ. 11. p. 175. col. 2.*

l Bellar. *de concil. lib. 2. cap. 17. §. Ad hunc locum.*

sary, but others with such limitations as are in [m] the statute, and for the future, nothing to be heresy, but what should be determined to be such by the Parliament, with th' assent of the Convocation.

[m] 1 *Eliz. cap.* 1.

Chap. IX.

Of the farther proceeding of Queen Elizabeth in the Reformation.

1. THings thus settled in 1° *Eliz.* the Parliament ended, the Liturgy of the Church, commonly called the book of Common prayer, reformed, and published, the Queen, [a] following the examples of her predecessors, and relying on the ancient Symbols as the doctrine of the Catholick Church, gave command the *Creed*, the *Paternoster* and *ten Commandements* (as the grounds for a Christian to believe, and frame his life after) should be taught her subjects, and none to presume to come to the Lords table before they could perfectly say them in *English*.

[a] *Canones dati sub Eadgaro & legibus ejus annexi. p.* 67. *Leg. Canut. cap.* 22. *p.* 105. *See before cap.* 4. *n.* 6. §. *iij.*

2. Hitherto to my understanding her Majesty had not done any thing not warranted by the practise of her predecessors, nor that could be justly interpreted a departing from the Apostolick faith, or indeed from *Rome* it self; where she kept an Agent, [b] till *Paulus* 4us during the Parliament commanded him to relinquish the title of Ambassadour, and not to stir out of *Rome*. So that if there were any departure, it must needs be the Pope made it, not the *English*; (who was so incensed, he would not at first acknowledge her Queen, nor after permit any from her in the quality of Ambassador to reside with him, though she had not done any thing but according to the

[b] Camden. *Annal. Anno* 1559.

the ancient rights of the Kingdom, and the uſages of former Princes.) But ſuppoſe (which will never be proved) her Matie to have gone farther then was fit for a Chriſtian Prince in ſettling Religion, certainly ſhe had juſt cauſe to conceive ſhe might do it, having ſo many precedents of her anceſtors in the caſe. Yet *Paulus* 4tus breaks off all entercourſe: ſome of his party firſt would not Crown her, then ſpake of excommunicating of her; indignities no Prince but muſt be ſenſible of.

3. Yet it ſeems, the firſt heat paſt, the Queens moderation was better received at *Rome* then at home: where the Pope, however a violent heady man, conſidering no doubt his own loſs in breaking off all commerce with ſo potent a Kingdom, [c] began to hearken to terms of accommodation, and was content things ſhould ſtand as they are, the Queen acknowledging his primacy, and the reformation from him. But his death enſuing the 18 *Auguſt* 1559. left the deſigne to be proſecuted by his ſucceſſor *Pius* 4tus, who by letters (ſent by *Vincentius Parpalia*, a perſon of great experience, employed by Cardinall *Poole* in his former negotiations, and of late in that hither,) of the 5th of *May* 1560. directed *chariſsimæ in Chriſto filiæ Elizabethæ Reginæ Angliæ*, did aſſure her, [d] *omnia de nobis tibi polliceare, quæ non modo ad animæ tuæ ſalutem conſervandam, ſed etiam ad dignitatem regiam ſtabiliendam & confirmandam, pro authoritate, pro loco ac munere quod nobis a Deo commiſſum fuit, a nobis deſiderares*, &c. Upon this, and their relations who then lived, and had part in the action, the *Engliſh* affirm *Pius* 4tus would have confirmed the liturgy of the Church of *England*: and indeed how can any imagine other? for doubtleſſe nothing could have been more to her diſhonour, then ſo ſuddainly to have changed what ſhe had with ſo great conſideration eſtabliſht; and the Pope aſſuring her, ſhe might promiſe her ſelf from him all he could do, I know not what leſſe or other he could expect

[c] *Torture Torti, p.* 142.

[d] *In* Camdeni *Annal. Anno* 1560.

pect she would ask. But where Sr *Edward Cook*, in his charge at *Norwich*, as it is now printed, sayes this offer came from *Pius* 5^tus, I conceive it a mistake, and should have been *Pius* 4^tus, (as in another place he names *Clement* the 9. who yet never was, for *Clement* the 8.) and the rest of the narration there not to be without absurdities, and to be one of those deserves the authors censure, when he sayes, [e] *there is no one period* in the whole *expressed in the sort and sense that he delivered it*; for certainly *Pius* 5^tus from his coming to the Popedome 1566, rather sought by raising against her forraign power abroad, and domestick commotions at home, to force her to his obedience, then by such civil ways as we now speak of to allure her; though the thing it self is no question true, how ever the person that offer'd it be mistaken in some circumstances.

[e] *Præfat. lib. 7. relat.*

4. They [f] that make a difficulty in believing this, object it to have been first divulged 1606. 46 years after the profer of it. That Sr *Edward Cook* averr'd to have received it from the Queen her self, not then alive to contradict him. But for my part I confess I find no scruple in it, for I have ever observed the wisdome of that Court, to give what it could neither sell nor keep; as *Paulus* 4^tus did the Kingdom of *Ireland* to Queen *Mary*, admitted the five Bishopricks erected by her father, approved the dissolution of the Monasteries made by him, &c. of which nature no question this was. For the being first mentioned 46 years after, that is not so long a time but many might remember; and I my self have received it from such as I cannot doubt of it, they having had it from persons of nigh relation unto them who were actors in the managing of the businesse. Besides, the thing it self was in effect printed many years before; for he [g] that made the answer to *Saunders* his seventh book *de visibili monarchia*, [h] who it seems had been very carefull to gather the beginnings of Queen *Elizabeth*, that there

[f] *Parallel. Torti & Tortoris, p. 241.*

[g] *Servi fidelis subdito infideli responsio, apud Iohannem Dayum 1573.*

[h] *p. 121.*

there might be an exact history of her, *tandem aliquando, qui omnia acta diligenter observavit, qui summis Reipublicæ negotiis consulto interfuit*, [i] relates it thus.

5. That a noble-man of this Country being about the beginning of the Queens reigne at *Rome*, *Pius* 4^tus^ asked him of her Maties casting his auctority out of *England*, who made answer that she did it being perswaded by testimonies of Scripture, and the laws of the realm, *nullam illius esse in terra aliena jurisdictionem*. Which the Pope seemed not to believe, her Majesty being wise and learned, but did rather think the sentence of that Court against her mothers marriage to be the true cause; which he did promise not onely to retract, *sed in ejus gratiam quæcunque possum præterea facturum, dum illa ad nostram Ecclesiam se recipiat, & debitum mihi primatus titulum reddat.* and then adds, *extant apud nos articuli Abbatis* * Sanctæ salutis *manu conscripti, extant Cardinalis* Moronæ *literæ, quibus nobilem illum vehementer hortabatur, ut eam rem nervis omnibus apud reginam nostram sollicitaret. Extant hodie nobilium nostrorum aliquot, quibus Papa multa aureorum millia pollicitus est, ut istius amicitia atque fœderis inter* Romanam *cathedram &* Elizabetham *sereniſſimam authores essent.* This I have cited the more at large, for that *Camden* seems to think, what the Abbot of *St Saviour* propounded was not in writing, and because it being printed seven years before the Cardinall *Moronas* death, by whose privity (as Protector of the *English*) this negotiation past, without any contradiction from *Rome*, there can no doubt be made of the truth of it. And assuredly, some who have conveniency and leisure may find more of it then hath been yet divulged: for I no way believe the Bishop of *Winchester* would have been induced to write, it did *constare* of *Paulus* 4^tus^; nor the Queen her self, and divers others of those times, persons of honour and worth, (with some of which I my self have spoken) have affirmed it for an undoubted truth,

[i] *Ibid. p. 70, 71. the book is not printed with pages, but they are added with a pen.*

* *Sancti Salvatoris* Camden *Anno* 1560. *calls him. who in the year* 1562. *seems to have been employed by the said Pope into* France. *Hist. Concil. Trid. lib. 6. p. 501. and of whom mention is made in the life of Cardinall* Poole.

truth, did not somewhat more remain (or at least had formerly been) then a single letter of *Pius* 4^tus^, which apparently had reference to matters then of greater privacy. And here I hold it not unworthy a place, that I my self talking sometime with an *Italian* gentleman (verst in publick affairs) of this offer from the Pope, he made much scruple of believing it; but it being in a place where books were at hand, I shew'd him on what ground I spake, and asked him if he thought men could be Devils, to write such an odious lie, had it not been so. *Well* (says he) *if this were heard in* Rome *amongst religious men, it would never gain credit; but with such as have in their hands the* Maneggi della corte, (for that was his expression) *it may be held true.*

6. Indeed, the former author doth not expresse, (as perhaps then not so fit to be publisht) the particulars those articles did contain were writ with the Abbots own hand; (which later pens have divulged) but that, in generall, it should be any thing lay in the Popes power, on her acknowledging his primacy: and certain no other could by him have been propounded to her, nor by her with honour accepted, then that of his allowing the *English* Liturgy: so that they who agree he did by his Agent (according to his letter) make propositions unto her, must instance in some particulars, not dishonorable to her self and Kingdom to accept, or allow what these writers affirm to have been them. And I have seen and heard weighty considerations, why her Majesty could not admit her own reformation from *Rome*; some with reference to this Church at home, as that it had been a tacite acknowledgment it could not have reformed it self, which had been contrary to all former precedents; others to the State of Christendom as it then stood in *Scotland*, *Germany*, and *France*: but with this I have not took upon me to meddle here.

7. Yet what the Queen did upon this message, seems

to

to have given no very ill ſatisfaction; for [i] S[r] *Edw. Carne*, then in *Rome*, adviſed the Pope the ſame year to invite her to the Councell of *Trent*, promiſing him half the Kingdom with her own liking would receive his meſſenger; which yet was found otherwiſe: the reaſons why, are ſome toucht by Hiſtorians, and may more at large be ſeen in S[r] *Nicholas Throgmortons* negotiations, then her Ambaſſador in *France*. Certainly [k] the *French* were not altogether out of an opinion (or at leaſt would have it thought ſo) of her ſending to the Synod; which the Pope, however he invited her, was not a little troubled at. But the great combination of the Popiſh party, ſupported by *France* againſt *England*, made her ſee ſhe could expect no good where they were predominant: upon which ſhe cauſed the divines of her Kingdom in councell to conſider of a juſt and lawfull reformation; who meeting 1562, reviving the Acts of a Synod held at *London* ten years before under *Ed.* the 6th, and explaining ſome few expreſſions, and omitting ſome points rather of diſpute then faith, did conclude on 39 articles ſo juſt, ſo moderate, ſo fully agreeing with the doctrine of the primitive fathers, and with the ancient tenets and practiſe of this very Church in the times of the *Britons* and *Saxons*, as if any ſhall ſay no Clergy in any age or place have held out a more exact rule, he may be eaſilyer contradicted, then juſtly blamed, or confuted.

i *Hiſt. concil. Trident. Anno* 1560. *p.* 446.

k *Ib. p.* 522, *p.* 528.

8. For having laid their ground, *that* [l] *holy Scripture containeth all things neceſſary to ſalvation, ſo that whatſoever is not read therein, nor may be proved thereby, is not to be required of any man, that it ſhould be believed as an article of Faith*, &c. they do upon that Baſis eſtabliſh the doctrine of the three Creeds, the Nicen, Athanaſian, and Apoſtles, heretofore ever held to contain *Eccleſiarum omnium fidem*, and that the [m] *Romiſh doctrine of Purgatory*,

l *Art.* 6.

m *Art.* 22.

of Purgatory, Pardons, worshipping & adoration of Images, relicks, Invocation of Saints, &c. *is not warranted by Scripture,* that is, are no articles of faith: and then proceed to settle such other things as are *juris positivi,* with so just a moderation, as is hardly elsewhere to be found; changing nothing for the generall, but where the practice of their own ancestors did justify their doings, without at all extending themselves to any thing where they had not antiquity their warrant.

9. Following which, they restored the cup, having the Councell of *Clermont* under *Vrban* the 2, that [n] *Corpus Dominicum & sanguis singulatim accipiantur,* the command of [o] *Paschalis* the 2. and the practice of the *English* Church, where sickly people, women as well as men, were to be provided of a pipe to receive it by; as was expressly injoyned the order of the *Gilbertines* about 1200. The thing being already printed, I need here repeat no more, but onely add, that this permission of theirs was no other but a restoring to *minores ecclesias*, that is Parochial or Country Churches, that liberty *Peckham* had deprived them of not 300 yeares before. For I do not find any prohibition, but the Lay might ever have been partakers of it with us *in majoribus*, that is Cathedrall Churches; for [q] *Lyndwood* in his gloss upon the *English* constitutions about 1430, propounds this question, *Sed numquid in istis ecclesiis Cathedralibus, & aliis majoribus, liceat non celebrantibus dum communicant recipere sanguinem Christi in specie vini? videtur ex hac litera, quod sic, argumento sumpto à contrario sensu, quod est in jure fortissimum, ut* &c. —— *& hoc bene putarem verum; saltem quoad ministrantes sacerdoti ministranti* &c.

10. For the permitting of Matrimony to the Clergy, it is undoubted all here had the liberty of marrying, before [r] *Lanfrank* in a Councell at *VVorcester* 1076. did rather advise then command the contrary; which *Huntington* (who was himself the son of one in holy orders) sayes

n *Apud* Ordericum Vitalem *Anno* 1095. *p.* 720. a.

o *Apud* Baron. *to.* 12. *Anno* 1118. *n.* 2. *in nonnullis in Appendice.*

p *Statuta* Gilbertinorum *Mſ. de canonicis cap.* 33. *vide adversaria Doctoris* Watſii *ad* Mat. Paris *p.* 9. *lin.* 6.

q De summa Trinitate & fide Catholica, *cap.* Altissimus, *verbo* minoribus ecclesiis.

r *Antiquit. Britan. p.* 98, 10. *in Lanfranci vita.* ſ Hunt. *fol.* 217, b. 26. & a. 10.

ſayes was firſt prohibited by *Anſelm* 1102. But [t] *multi presbyterorum ſtatuta Concilii Londonienſis——poſtponentes, ſuas fœminas retinebant, aut certe duxerant quas prius non habebant* &c. ſo that his conſtitutions came quickly neglected, Prieſts both marrying, and retaining their wives. At which though the King were [u] ſomewhat diſpleaſed, yet ſoon after [x] he took a piece of money of them for it, and they kept them by his leave. Divers conſtitutions were after made by ſeverall Archbiſhops and Legats in the point, as by *Steph. Langton* at *Oxford* 1222, regiſtred by [y] *Lyndwood*: ∴ yet it is manifeſt they did ſecretly contract marriage, which ſome are of opinion they continued till towards the end of *Edward* the 3^d^ reign. This I am the rather induced to believe out of that in [z] *Knighton*, that ∵ *John de Alithwerl* Clerk was ſlain by his wife and ſervant in his own houſe at *Leiceſter* 1344. for which fact ſhe was burnt, and he hanged. Now I conceive, had ſhe been onely his concubine, not his ſervant, ſhe had not ſuffer'd by the judgement of burning for the murther, but hanging onely: neither can I interpret the word *Clericus* for other then one in holy Orders, prohibited marriage by the Canons of *Rome*; though I know, *large loquendo*, as our [a] *Lyndwood* hath it, *omnes in Eccleſia ad divinum officium ordinati* are ſometimes ſo ſtyled, [b] of which ſuch as were *infra ſubdiaconatum* might retain their wives, but thoſe were *in ſubdiaconatu* or above were to quit them. But the Canons yet remaining made at ſundry times, from *Lanfrank* even to *Chichly*, by the ſpace of more then 300 yeares, enough aſſure us this point of *Celibat* was not eaſily impoſed on the *Engliſh* Clergy, and aſſures us ſuch as laid it might take it off again.

t Eadmer, p. 94, 48.

u Eadmer. p. 105, 27.
x Hunt. fol. 220, a. 26. *Saxon. Chron. Petroburg. Mſ.*

y De cohabitatione cleric. & mulierum, & de Clericis conjugatis. ∴ *Conſtit. Othonis cap.* Innotuit.
z *Col.* 2584, 7. Clericus apud *Leiceſtrum.* ∵ *Quare whether this were not the Prieſt of the town that was thus inhabiting there.*

a De locato & conducto, *cap.* Vendentes, *verbo* Si quis Clericus.
b Lynd. *de clericis conjugatis, cap.* 1. *Vide Monaſticum Anglicanum, p.* 899. & *p.* 900.

11. For Images, if the *Saxons* had any uſe at all of them in their Churches (for ornament, for hiſtory, [c] to which end S. *Gregory* holds they might be permitted, for memorialls of holy men departed, (as we have of late

c Greg. *lib.* 7. *epiſt.* 109. & *lib.* 9. *epiſt.* 9.

seen) & they being only thus applyed, I conceive, *d* with the Bishop of *Salisbury*, the weight of the question not so great,) yet it was a thing voluntary, no command of the Churches injoyning it, till after the Conquest. And here the question is not, whether *Augustine* might or did bring the picture of our Saviours Crosse in his banner, as most Protestants yet retain it; but whether he placed them in the Church, with an intent to have worship of any kind attributed unto them: for which purpose, I confesse, I have not heard of them till many yeares after; for the vision of *Egwinus*, and the Councell of *London* setting up of Images being made good (so far as I know) by no author of any antiquity, I cannot but take it *e* with *Baronius* for a meer figment.

12. It is certain, *f* 792 the Bishops of *England* declared their dissent from the second Councell of *Nice* in point of Images, held onely 4 yeares before, according to *Diceto*: and where some interpret that they did onely condemn the worship the *Greeks* call λατρεία, by using the *Latin* word *adorare*; it cannot be denyed but they did reject that *h* τιμητικὴν προσκύνησιν the Orientall Bishops had established, in which sense they used the word *adorare*, which is often, as well in holy writ as by humane authors, taken for that reverence is given a creature, as for the religious duty we only owe to the Divine Majesty: see *Gen.* xxiii. 7, 12. *Ingulphus*, a writer not long after, *m* Constantinopolim *pervenimus*, *ubi* Alexim *imperatorem adorantes* &c. So *Arundell* in his constitutions, * *adorationem crucis gloriosæ.*

13. To this narrative *n* *Harpsfield* gives the title of *commentitia & insulsa fabula*, and thinks it not writ by *Sim. Dunelmensis* or *Mat. VVestminster* (he might have added *Hoveden*, the Ms. *history of *Rochester*,) but that it was anciently inserted into them. For answer to which, he would be desired to produce any one old copy without it, not mangled, so as it doth *prodere furtum* by wanting

it:

d Reply to Harding. Art. 14. *in principio.*

e To. 8. *anno* 714. *n.* 2.

f Simeon Dunelm. *col.* 111, 50. Hoveden *fol.* 232. b. 3. Mat. West. *Anno* 793. *p.* 283.

g *Anno* 782. *et* Baron. *anno* 787. *tom.* 9. *n.* 10. 38.

h *Concil. gen. Rom. Synod.* 7. *p.* 661, *lin. ult.*

m Ingulph. *fol.* 514. a. 17.

* Lyndwood *de Hæret. cap.* Nullus quoque.

n *Seculo* 8. *cap.* 5. *p.* 126. 9.

o *In bibliotheca Cotton.*

it: I have seen divers of *Hoveden* Mss. some of *Math. West.* but never did one wherein it was not found, not in the margin but in the text it self, and so it is in *Dunelmensis* his Ms. at *Bennet* Colledge in *Cambridge*. For my part, I do not know how any thing we mislike in History, may not after this manner be rejected, if a relation gathered from monuments of an elder date, which are perisht, yet cited by one who lived not so long after the time he speaks of, but they might well come to his hands, whom we find very sincere in such citations as yet remain out of more old authors then himself, ever esteemed of good credit in the Church of God, and in his narration followed *ad verbum* by those who writing of the same matter succeeded him, I confesse, I say, if this may be cast away, as a lying & foolish fable, I know not what shall gain credit. But what will men not lay hold on in a desperat shipwrack? I remember [p] *Baronius* prest with the testimony of *Luitprandus* in the deposition of *John* the 12. by imperiall auctority, makes no question of denying the five last chapters of his 6. book to have been written by him, though never doubted for more then 600 years since he lived.

p *To. 10. anno 963. 2, 3. Anno 968, 10.*

14. Another [q] Doctor, I confesse, seems to give a more difficult objection; that [r] *Alcuinus*, who is said to have writ against the second *Nicen* Councell in the point of Images, doth in his book *de divinis officiis* say, *prosternimur corpore ante crucem, mente ante Deum; veneramur crucem per quam redempti sumus* &c. and this from an author had written against Images, he would have imply a veneration of them (even in his time who opposed them) by the *English* Church. But what hath the reverence of the Crosse to do with the worship of Images? It is not to be denyed but Christians, in their talk and writings, did extoll and magnifie the Crosse, forced thereunto by the Gentiles, who spake ignominiously of him that dyed upon it; yet I believe it will be difficult to shew any Law

q Richard Smith *Archiepisc.* Chalcedon. *Flores hist. Anglic. lib. 2. cap. 7. p. 134.*

r *De Divinis officiis, die Parascev.*

or Canon before the Conqueſt, injoyning the uſe, much leſſe that attributed any religious worſhip unto Images.

15. It is true, the [f] Councell of *Celicuith* 816. did charge *unicuique Epiſcopo, ut habeat depictam in pariete oratorii, aut in tabula, vel etiam in altaribus, quibus ſanctis ſint utraque dedicata*, &c. which was clearly for memoriall and ornament; as it hath been very common, in ſome Churches, to have on the wall the Image of Queen *Elizabeth*, and ſuch as have built an Iſle or window, to have their ſtatue or picture ſet up in it, which in ſome parts perhaps remain to this preſent; yet no man ever held any religious duty fit to be given them, nor any man compell'd to ſet them up. Now that there was no precept of the Church commanding their uſe, I ſpeak [t] from the rules of *Sempringham* about 1148. that doubtleſſe did not vary from the generall practiſe of Chriſtians here, yet hath this expreſſe ſtatute, *Sculpturæ vel picturæ ſuperfluæ in Eccleſiis noſtris ſeu in officinis aliquibus Monaſterii ne fiant interdicimus, quia dum talibus intenditur, utilitas bonæ meditationis vel diſciplina religioſæ gravitatis ſæpe negligitur: cruces tamen pictas quæ ſunt ligneæ habemus.* So that it ſeems to me they did account all pictures ſo ſuperfluous as not to have them, but onely painted croſſes: & this was one of the firſt foundation. And in another [u] place, which I take to be ſomewhat after, the buying of them and ſilk, as things indifferent, are alike interdicted; yet a direction how to beſtow any thing of that nature ſhould be left them: but ſee the words; *Nihil de ſerico ematur à noſtris vel de noſtro ad noſtrorum opus, vel ad aliquid religioni contrarium, & ſeculi vanitatibus amminiculum, nec etiam ad quodlibet ſacerdotale indumentum, niſi conſtet eſſe neceſſarium: Si vero datur, ſecundum arbitrium* Prioris *omnium communi utilitati & uſui mancipetur. hoc idem de Yconiis vel aliis* ſculptilibus *dicimus, quæ ad beatæ* Mariæ *Virginis vel aliorum ſanctorum ſunt fabricata memoriam;*

quæ

f *Concil.* Spelm. *cap.* 2. *p.* 328.

t Inſtitutiones Mſs. beati *Gilberti* & ſucceſſorum ejus per capitula generalia inſtitutæ; de exordio, ordinatione, inſtitutione ordinis Canonicorum, Sanctimonialium, fratrum & ſororum laicatum ordinis de *Sempringham. de canonicis cap.* 15. & *Sculptura.*

u *De fratribus cap.* 13.

quæ tamen gratis * *grata, prout de ſerico prædiximus, ad ſororum altare, vel hoſpitium, vel alio apto loco honeſte ponenda decernimus.* So that it is apparent then their uſe was eſteemed no other then that of ſilk; and theſe two articles ſeem to have been reſolved on nigh the firſt foundation (being in an hand differing from ſome other I ſhall mention) by the Founder himſelf.

* *Sic Mſs. ſed lege* gratis data, *as it is in other places (as you will ſee hereafter) repeated.*

16. In the year 1200 the houſe of *Sixle* or *Sixhill* in *Lincolnſhire* was viſited by the Abbat of * *Waredune*, as Commiſſioner of [x] *Otho* the Popes Legat; where about 20 articles were concluded for the government of the Order: the fifth of which, though it gave ſome more liberty then the former, yet was not without reſtraint: but take it from an hand of thoſe times. *Anno gratiæ* Mcc *in viſitatione facta de* Sixl' *per Abbatem de* Wardun̄ *auctoritate Domini* Otonis *Legati, ſtatuta ſunt hæc firmiter obſervanda. Inprimis*, &c. cap. 5. *Item inhibetur ne picturarum varietas aut ſuperfluitas ſculpturarum de cætero fieri permittatur, nec liceat alicubi ymonias haberi, nec imagines, præter ymaginem Salvatoris, & y. beatæ* Mariæ, *& Sancti* Johannis *Evangeliſtæ.* Hitherto queſtionleſſe, the Church of *England* following the doctrine of [y] St *Gregory*, had been taught by teſtimonies of holy writ, that *omne manufactum adorare non liceat*; and though they might be lawfully made, yet by all means to avoid the worſhip of them: but ſee the progreſs.

* Wardon *or* Wardun *was a monaſtery of the* Ciſtertian *Order in* Bedfordſhire.

x *Quere whether this were that Otho was after Cardinall, viz. in September*, 1227.

y *Lib. 9. Epiſt. 9. Indict. 4.*

17. Sixty eight years after this, *Othobon*, being the Popes Legat in *England*, did in his own perſon viſit the chief houſe of this Order, and committed the others to *Rodulphus* de *Huntedune*, the ſaid Cardinalls Chaplain, and penitentiary; who aſſociating to himſelf one *Richard* * generall inquiſitor of the Order of *Semplingham*, did in the year 1268. conclude upon 74 or 75. heads or chapters for the government of them; the 54 of which, under the title *de ymaginibus habendis*, is this:

* *Generali eſuſdem ordinis de* Semplingham *ſcrutatore.*

Item, cum, ſecundum Johannem Damaſcenum, *ymagi-*

nis honor ad prototypum, id est, ad eum cujus est ymago pertineat, ad instantiam Monialium, & earum devotionem ferventius excitandam, conceduntur eis ymagines crucifixi & beatæ Mariæ & sancti Johannis *Evangelistæ, & quod possint habere in quolibet altari dedicato ymaginem ipsius sancti in cujus honore altare dedicatum est. Si tamen gratis detur eisdem, sicut beatus* * G. *de serico & de ymaginibus duxit statuendum, & celebretur ipso die festivitatis illius sancti, & die dedicationis ejusdem altaris, missa ad dicta altaria, etiamsi sint infra clausuram monialium.* Thus they.

* Gilbertus.

18. By which it is manifest, this Kingdom had not then received * the 7th Councell; for if they had, there can be no thought they would have built their Article upon *Damascens* opinion onely. But by all these we may see, Images were brought into this Church by degrees, by little and little: First they were to have none, onely wooden crosses were tolerated; then they might not buy any, but being given they might accept the image of our Lady and other Saints; then an inhibition of all Saints, except *our Saviour*, the *Blessed Virgin*, and St *John* the Evangelist, to which was added the image of that Saint their Altars were dedicated unto, and these onely by concession, not bought, but given. So that it is plain, they were then taken for things onely indifferent, as silk, which they might use or be without, no processions, bowings, kissing, &c. of them prescribed; but how the practise was afterward, that chapter of *Arundell* registred by *Lyndwood* may tell you, which because it is long, I shall not farther repeat, it being printed, then to adde that it is in him, lib. 5. de *Magistris*, cap. *Nullus quoque*: and in another place he propounds this question, * *Numquid ymago* Christi *sit adoranda cultu latriæ?* and resolves, *si consideretur ut ymago, tunc quia idem motus est in ymaginem in quantum est ymago & ymaginatum, unus honor debetur ymagini & ymaginato; & ideo cum* Christus *latria*

* Concil. Nicæn. 2.

* Lyndwood de Ecclesiis ædificandis cap. ut parochiani, verbo Imaginis.

tria adoretur, ejus imago debet ſimiliter latria adorari. Nec obſtat Exod. xxvi. *ubi dicitur, non facies tibi ymaginem nec ſculptam ſimilitudinem; quia illud pro eo tempore erat prohibitum quo Deus humanam naturam non aſſumpſerat, &c.*

19. The Synod at *Weſtminſter* finding things in this poſture, and their retention in many parts to have been joyned with a great abuſe, if not impiety, took a middle courſe; firſt to condemn all manner of adoration or worſhip of them, (and therefore every *Sculptile* had been removed out of Churches) but whereas ſome uſe might be made of them for remembrance of hiſtories paſt, to retain in ſundry parts ſuch windows and pictures, as might without offence inſtruct the ignorant in ſeverall paſſages not unworthily preſerved: which if any man have ſince been offended at, it muſt be on other grounds then I underſtand.

20. As they proceeded with this circumſpection, not to depart from the primitive Church in matters *juris poſitivi*, ſo did they take no leſs care in points of opinion; for having declared which were the books of holy Scripture, they did not abſolutely reject the uſe of the other, though they had been [a] taught by the doctrine [b] of S[t] *Hierom* and [c] S[t] *Gregory*, not to repute them *in Canone*, but to admit them *quia fidem & religionem adificant*, or, as they [d] ſay, *for example of life, and inſtruction of manners.*

21. For praying to Saints, however the *Saxons* might honor holy men departed, *eo cultu dilectionis & ſocietatis quo & in hac vita coluntur homines*, as [e] S. *Auguſtine* ſpeaks, (which what it is he explains elſewhere) yet I am hardly perſwaded to think they did admit any publick praying to them in the Church; for I have ſeen and peruſed three ancient *Saxon* Pſalters full of prayers, but no one petition to any Saint whatſoever. [f] *Eadmerus* ſayes the report went of *VV[m]* the ſecond, that *crederet, & publica voce aſſereret, nullum ſanctorum cuiquam apud Deum*

a Iohan. Sariſb. *Epiſt.* 172. *p.* 281. 285. Waldenſis *tom.* 1. *lib.* 2. *Art.* 2. *cap.* 22. *n.* 2. *fol.* 203. a. *col.* 2. *edit. Venet.* 1571.

b *Præfat. in proverb. Salomonis to.* 3. *fol.* 9. c.

c S. Gregor. *Moral. lib.* 19. *cap.* 17.

d *Art.* 6.

e *Contra Fauſtum Manicheum lib.* 20. *cap.* 21. *to.* 6.

f *Lib.* 2. *p.* 48, 1.

um posse prodesse; & ideo nec se velle, nec aliquem sapientem debere beatum Petrum *interpellare:* yet he doth not censure this as hereticall, but onely *mentis elatio.* [g] *Gabriel Biel* long after confesseth in his time, some Christians as well as Hereticks were deceived, in thinking Saints departed *nobis auxiliari nec meritis possunt nec precibus.* The Church of *England* therefore, following ∴ S. *Augustine*, condemns all religious invocation of them, as those were *non adorandi propter religionem*; yet in respect they were *honorandi propter imitationem*, to retain their commemoration, by appointing a set service for the dayes on which it celebrated their memorialls; thereby to provoke us to imitation of their piety, and to thank God that left such lights, who by their doctrine instructed us, and whose lives were examples for us to follow: and in respect there are sundry Saints for whom there is no proper office, to retain one day to praise God for the generality of all, and beg of him that we may follow their pattern in all vertuous and godly living. This if any mislike, I intreat him to pardon me if I joyn not with him; and if he will add more, to give me leave to think he attributes to them (by what name so ever he style it) that is onely due to the Divine Majesty.

22. For Purgatory, however it might be held a private opinion, yet certainly as an Article of Faith it could not be; for the *Greeks*, who have ever [h] constantly denyed it, were in communion with the Church of *Rome* till [i] 1238. after which onely they began to be accounted schismaticks, not so much for their opinions, as denying subjection to the See of *Rome*; for some of them coming to *Rome* 1254 [k] *de articulis fidei & sacramentis fidei satis tolerabiliter responderunt:* so that questionlesse the Historian could not then hold Purgatory an Article of Faith, when those who did affirm *Nullum Purgatorium est*, did give a tolerable account of their Faith. Our Divines therefore charge these opinions [l] onely as *fond inventions*,

g *In Canon. Missa lect.* 3. D.

∴ August. *de vera religione cap.* 55. *to.* 1.

h Errores Græcorum in fasciculo Zizaniorum *Mss.* per *Thomam Waldens. fol.* 156. b. *col.* 1. in bibliotheca Archiepisc. *Armach.*

i Mat. Paris *hist. minor. Ms. Ann.* 1237. & 1238. *Vide Hist. major. Anno* 1237, *p.* 457, 16. *p.* 465, 22.

k Mat. Paris. *Hist. major. p.* 892, 28.

l *Art.* 22.

ventions, grounded on no warrant of Scripture, but rather repugnant to the word of God; that is, as I have ſaid before, they deny them to be Articles of faith.

23. In like manner, having firſt [m] declared the bread we break in the holy Communion to be a partaking of the body of Chriſt, and the cup of bleſſing of his bloud, they cenſure Tranſubſtantiation, or the change of the ſubſtance of bread and wine, as [n] what is not proved by holy writ, and therefore no Article of faith *&c.* And indeed how could they ſay leſſe of ſo doubtfull a tenet, ſo newly crept in, that had burnt ſo many, was ſo contrary to the ancient doctrine even of the *Engliſh* Church, as the *Saxon* Homily yet remaining in an old Mſs, with this title, [o] *A book of Catholick ſermons to be repeated each year*, doth undoubtedly aſſure us? It is true, ſome of late have ſtrove to give an anſwer to it; as he that ſtyled himſelf [p] Biſh. of *Chalcedon* will have the author perhaps to have been an heretick; but that the time and title confutes, all [q] writers agreeing *England* to have been free from any hereſy after S. *Gregory*, till about the year 1166. If that therefore will not do, he hath another, *viz.* the Sermon to make more for Tranſubſtantiation then what the Proteſtants cite doth againſt it; yet is ſilent both where the words are in it, and who are the citers of them. For my part, to ſpeak once for all, take the whole Homily as it lies, not one piece torn from the other, and if the doctrine of it be ſuch as he can digeſt, I know not why we differ. As for thoſe two miracles, which ſome diſlike ſo far as to think them infarced into the work, I confeſs them not to diſpleaſe me at all; for if they were inſerted to prove the verity of Chriſts body in the Sacrament, againſt thoſe who held it bare bread, yet it muſt be after ſuch a ghoſtly and ſpirituall manner as is there repreſented, without any other change in the ſubſtance of the bread and wine then is in the water of Baptiſm, [r] *p.* 33. not bodily but ghoſtly *pag.* 38. 36. a remembrance

m *Art.* 28.

n *Vide* Bellarmin. *de Euchar. lib.* 3. *cap.* 23. §. *ſecundo dicit.*

o *Liber Catholicorum ſermonum per annum recitandus. p.* 355.

p *Flor. Hiſt. Eccleſ. &c. lib.* 1. *cap.* 24. *p.* 91.

q Ab hac & aliis peſtibus Hæreticis immunis ſemper exſtitit Anglia,—— ubi hanc inſulam expulſis *Britonibus* natio poſſedit *Anglorum*, ut non jam *Britannia* ſed *Anglia* diceretur, nullius unquam ex ea peſtis hæreticæ virus ebullivit: ſed nec in eum aliunde uſq; ad tempora Regis *Henrici* ſecundi—— introivit. Newbrigenſis *lib.* 2. *cap.* 13. *Vide* Pitſeum *de ſcrip. Anno* 1159. *p.* 220.

r *Editionis Iohannis Dayi in octavo.*

of *Chriſts* body offered for us on the Croſs. *p.* 46.

24. And this may ſerve for anſwer to that his *Achilles*, by which his doctrine of Tranſubſtantiation [f] *manifeſtius patebit*, of *Odo* Archbiſhop of *Canterbury* about 940. converting miraculouſly the Euchariſt *in formam carnis, ad convincendum quoſdam, qui ſuo tempore cæperunt de ea dubitare:* to which I ſhall firſt remember, that when [t] S[t] *Auguſtine* was preſt with certain miracles of *Donatus* and *Pontius*, which the Donatiſts urged to prove the truth of their doctrine, he gives this anſwer, *Removeantur iſta vel figmenta mendacium hominum, vel portenta fallacium ſpirituum; aut enim non ſunt vera quæ dicuntur, aut ſi hæreticorum aliqua mira facta ſunt, magis cavere debemus*; and after a learned diſcourſe, he tells of ſome in the Catholick Church had happened in the time of St *Ambroſe* at *Milan*, upon which he gives this grave cenſure, *Quæcunque talia in catholica fiunt, ideo ſunt approbanda, quia in catholica fiunt; non ideo ipſa manifeſtatur catholica, quia hæc in ea fiunt. Ipſe Dominus* Jeſus *cum reſurrexiſſet à mortuis, & diſcipulorum oculis videndum manibuſque tangendum corpus ſuum offerret, ne quid tamen fallaciæ ſe pati arbitrarentur, magis eos teſtimoniis Legis & Prophetarum & Pſalmorum confirmandos eſſe judicavit, oſtendens ea de ſe impleta, quæ fuerant tanto ante prædicta,* &c. and a little after, *Hoc in Lege & Prophetis & Pſalmis teſtatus eſt, hoc ejus ore commendatum tenemus, Hæc ſunt cauſæ noſtræ documenta, hæc fundamenta, hæc firmamenta.*

[f] *p.* 90. *vide* Malms. *de pont. lib.* 1. *in vita Odonis fol.* 114, *b.* 36.

[t] *De unitate Eccleſ. cap.* 16. *tom.* 7.

25. To apply this to our caſe; the Church Catholick hath ever held a true fruition of the true Body of *Chriſt* in the Euchariſt, and not of a ſigne, figure, or remembrance onely, but as the *French* confeſſion, [u] *que par la vertue ſecrete & incomprehenſible de ſon Eſprit, il nous nourrit & vivifie de la ſubſtance de ſon corps & de ſon ſang*, &c. and therefore we can agree to theſe verſes:

[u] *Vide* Chamier. *de Sacramentis lib.* 10. *cap.* 1. 2.

Chriſt

Chriſt was the Word *that ſpake it,*
He took the Bread *and brake it:*
And as that Word *did make it,*
So I believe and take it.

Here is then a Catholick Sermon, commanded to be read in the Church many years before the word *Tranſubſtantiation* was heard, as the doctrine of it, teaching me this participation with *Chriſt*, however true, yet is not fleſhly, but ſpirituall: if therefore this miracle were not to convince thoſe held the communicating of *Chriſt* in the Sacrament, to have been no other then fantaſticall, and the bread to have been, and conveyed no other to us then bare bread, muſt not I, according to St *Auguſtine*, avoid it as the fancies of lying men, or the operation of deceiving ſpirits? &c. And this as it may ſerve in generall for all miracles, ſo in particular for that of late divulged, of a poor mans legg cut off in *Spain* and buried, yet four years after reſtored: which if it be not ſome impoſture, as the golden tooth in *Sileſia*, or of *Arnald Tilly* (taken in *Francis* the 2^ds time not onely by others, but by the very wife of *Martin Guerre* for her husband, and which held the Parliament of *Tholous* ſo much perplexed to reſolve) we muſt not (according to this holy mans doctrine) believe for that or any of the like nature, farther then is proved by the Law and the Prophets, &c. Yet there is one thing in my opinion very conſiderable; what the Apoſtles did, were ſuch, and in thoſe places, no man could deny them: but theſe the Church of *Rome* holds out for confirmation of their religion, are either in corners, as *Garnets* Face in the Eare, with ſo dark proofs, as when they are looked into, *res tota cum contemptu dimiſſa eſt*; or elſe done in *Italy*, or *Spain*, where the Inquiſition will ſuffer none but themſelves to examine the fact: whereas if they followed th' Apoſtles example, they ſhould be in *England* or *Germany*, that the Proteſtants might ſay, *indeed a notable miracle hath been done* by

by our Lady, *is manifeſt to all, and we cannot deny it.* Acts iiij. 16.

26. [x] Another will have that homily, at leaſt what he takes on him to confute, to contain no other then Catholick doctrine; and then falls upon the Archbiſhop of *Armach*, whom he conceives to have ill tranſlated it out of the Latin, in which language there is not now found any ancient copy of it; [y] inſiſting, that though it were printed at *London* 1623. it was not to be heard of when he writ, which was about 1631. inſinuating as if more might be ſaid, if he could ſee the author himſelf. For the firſt of theſe, it muſt be ſaid to contain Catholick Doctrine on the grounds [z] before; but if it be that the Church of *Rome* admits for ſuch, I am glad to underſtand that from him. For the Primat of *Ireland*'s tranſlating the Latin to the diſadvantage of the *Romiſh*, I ſhall give no anſwer, but that his *Engliſh* are indeed ſome parts of that ſermon, but the *Latin* pieces of *Bertram* ſo agreeing with them, as they were undoubtedly taken out of him, (by which he gives a far elder teſtimony to that author then *Oecolampadius*) who was, no queſtion a Catholick Doctor; but being ſo why is he prohibited ∴ by the Roman Index? why if at all permitted, muſt it be *excogitato commento?* For the other, that it could not be had in *London* only eight years after it was printed, I can ſay nothing, but ſome men will not hear that they miſlike: for that Homily, of which (if he ſay any thing) he ſpeaks, firſt ſet out by *John Day*, with the ſubſcription of 15 Biſhops atteſting the truth of the Copy, after 1623 reprinted by *Henry Seal*, alwayes in the book of *Acts and monuments* &c. [a] in the life of *Hen.* the 8, and of late by Mr. *Whelock* put into *Latin*, and taken without any intervening tranſcription from the originall *Saxon*, (that he might not vary in a tittle) was with his tranſlation of it printed at *Cambridge* 1644. [b] amongſt divers other excellent notes of that learned man upon *Beda*, that ſuch as under-

[x] I.R. *his ſpectacles to Sr* Humfrey Lynde, *p.* 135. §. 4.

[y] *p.* 143. *cap.* 9. §. 10.

[z] N. 23.

∴ *Index expurgatorum auctorum.* Romæ.

[a] *Tom.* 2. *p.* 450.

[b] *p.* 462.

underſtand not the language, may in that point ſee the doctrine of our forefathers.

27. A third [c] Doctor, who cannot deny but it makes directly againſt Tranſubſtantiation, gives an anſwer I could not have expected, yet in my opinion more ingenuous; *That it is unreaſonable to produce the forceleſſe authority of theſe* Saxon *Homilies, which have no warrant of truth from any other but from our ſelves*; and the margin, *Theſe Homilies were never heard of, but now of late amongſt Proteſtants, onely framed and printed by themſelves, without the warrant of any one indifferent witneſſe.* This is, I ſay, what I could not have looked for. Can any man imagine two Archbiſhops, thirteen Biſhops, beſides divers other perſonages of honour and credit, could have been induced to ſubſcribe ſo palpable a lye? as it muſt be, if this and the other paſſages, by them there teſtified to be found in the ancient monuments of this Church, were lately framed. But the old books that yet [d] remain, writ above five hundred yeares ſince, do enough vindicate the Proteſtants, in that which I dare ſay no one of them who alledge it do in their hearts believe, not to have been extant in them, as the Archbiſhop firſt ſent them to the Preſs.

c Malon *his Reply to the Archbiſhop of Armach*, p. 320.

d *In bibliotheca publica Cant.*

28. Of the little credit the Councell of *Lateran* in this point gained here, I have [e] touched before: neither did *Peckham*'s conſtitution, *ſub panis ſpecie* ſimul *dari corpus* &c. ſpeak home, nor was the thing ever abſolutely determined with us till 1382: ſo that the opinion of Tranſubſtantiation, that brought ſo many to the ſtake, had not with us 140 yeares preſcription before *Martin Luther* began; for in that year *Wickliff* having propounded, [f] *quod ſubſtantia panis materialis aut vini manet poſt conſecrationem* &c. the Archbiſhop taking it into [g] conſideration, did not think fit to condemn the *Tenet*, without farther advice with the Univerſity of *Oxford*, [h] where *libratis ſingulis*, every ſaying weighed, (and in eſpeciall,

e *Chap.* 7. *n.* 37.

f *In faſciculo zizaniorum Mſs. per* Thom. Waldenſ. & Hen. Knighton, *qui tunc vixit ſcripſitque, col.* 2648, 8. & 2654, 44.

g Knight. *col.* 2649, 31.

h *Col.* 2650, 49.

as it seems, those [1] concerned the Eucharist) he did condemn some as hereticall, others as onely erroneous, and farther, *singulos defensores eorum* impostorum *sententia excommunicationis innodatos fore*, and gave command, [k] *ne quis* de cætero *cujuscunque status* &c. ——— *hæreses seu errores prædictos vel eorum aliquem teneat, doceat, prædicet seu defendat.* The [l] Chancellor likewise of the Academy repeating *Wickliffs* opinions touching the holy communion, shews they had been diligently discuss't by Doctors in Divinity, and professors in the Canon Law, *ac* tandem finaliter *est compertum atque judicio omnium declaratum, ipsas esse erroneas, fidei orthodoxæ contrarias, & determinationibus Ecclesiæ repugnantes*: and then after all this search, delivers the doctrine of Transubstantiation as the conclusion agreed to be held, *Quod per verba sacramentalia à sacerdote prolata, panis & vinum in altari in verum corpus Christi & sanguinem* transubstantiantur, seu substantialiter convertuntur *sic, quod post consecrationem non remanent in illo venerabili sacramento panis materialis & vinum secundum suas substantias, sed secundum species earundem.* And this I take to have been the first plenary determination of the Church of *England* in the case, which yet how well it will be liked by such as hold the manner of conversion to be by a [m] succession of Christs body to the substance of the bread, I leave others to dispute. But certainly the Archbishop not [n] adventuring to proceed in it alone, nor by his own councell, by [o] his extending what he did onely to the future, both for punishment and *Tenet*, and after [p] long enquiry concluding the truth of it, enough proves it not to have been in former times fully resolved on in this Church; so that we may say of our Auncestors, as [q] the Iesuites here about some 60 yeares since did of the Fathers, *rem Transubstantiationis ne attigerunt.* And it may not here unfitly have a place that *John Tissington*

1 Col. 2654.

k 2652, 67.

l Col. 2653.

m Vide Bellar. de Eucharistia lib. 4. cap. 24. §. ult.

n Noluit Arch. plenarie procedere.

o Imposterum, de cætero teneat.

p Tandem finaliter.

q A sparing discourse pag. 13. writ by a secular Priest against the Iesuites Anno 1601.

*. In Confess. contra Wickliff. in bibliotheca Archiepisc. Armach. Mss.

Tiſſington a Franciſcan, whom *Pitſeus* (from *Baleus*, not *Leland*, as he would have us think) affirms to have been an aſſiſtant in this diſpute at *Oxford* 1382, or as ſome 1381. cannot deny the truth of the aſſertion, *quod panis & vinum remanent poſt conſecrationem in naturis ſuis, adhuc ſervatur Laicis, & antiquitus ſervabatur.* And here it is not unworthy the remembring, that by the law of the 6 Articles 31. *Hen.* 8. cap. 14. (containing in effect the body of Popery) no man was to dye as an Heretick but he who denyed this Tenet; all others onely as felons, or men endangering the peace of the Kingdome, by teaching contrary to what was publickly received. By which it likewiſe appears, in fixing th' imputation of Hereſy, the *Engliſh* looked on their home Determinations, not thoſe of any forreign Church.

29. But I do not take upon me to diſpute matters controverſall, which I leave as the proper ſubject to Divines; it ſhall ſuffice onely to remember, the Church of *England* having with this great deliberation reformed it ſelf in a lawfull Synod, with a care as much as was poſſible of reducing all things to the pattern of the firſt and beſt times, was interpreted (by ſuch as would have it ſo) to depart from the Church Catholick; though for the manner, they did nothing but warranted by the continuall practice of their predeceſſors, and in the things amended had antiquity to juſtify their actions: and therefore th' Archbiſhop of *Canterbury*, in a provinciall Synod begun in S. *Pauls* the 3 of *April* 1571, and all other Biſhops of the ſame Province, gave eſpecially in charge to all preachers, to [1] *chiefly take heed, that they teach nothing in their preaching, which they would have the people religiouſly to obſerve and believe, but that which is agreeable to the doctrine of the old Teſtament and the new, and that which the Catholick Fathers and ancient Biſhops have gathered out of that doctrine.* So that

[1] *The book of Canons of the ſame Synod printed by* John Day 1571.

nothing is farther off truth, then to ſay, ſuch as reformed this Church made a New religion; they having retained onely that which is truly old and Catholick, as Articles of their faith.

30. Thus was Religion reformed, and thus by the Queen eſtabliſht in *England*, without either motion, or ſeeking any new way not practiſed by our Anceſtors, but uſing the ſame courſes had been formerly traced out unto them, for ſtopping profaneneſs and impiety, when ever they peeped in the Church. And certainly, to my underſtanding, there can be none that will with indifferency look upon thoſe times, but he muſt (however he miſlike the thing done) approve the manner of doing it. Yet the favorers of *Rome* ceaſed not to proclaim all had thus paſt to have been hereticall (without inſtancing any particular, as to ſay ſuch a carriage was after the mannet of Hereticks, ever condemned by the Catholick Church; and by orthodox writers in former times, or ſuch a Tenet in your confeſſion was held hereſy from this place of Scripture anciently, by ſuch holy Fathers met in generall Councell) and to raiſe ſtirs and commotions in the Commonwealth, [f] to excommunicate the Queen as *flagitiorum ſerva*, free her ſubjects of their allegeance, to give out we had [t] a *Parliament-religion*, *Parliament-Goſpell*, *Parliament-Faith*, and this before ever the 39 Articles, one main pillar of the *Engliſh* reformation, were confirmed by Parliament.

[f] *Bulla Pii 5ti March 28. 1569.*
[t] *Harding his confutation of the Apol. part 6.*

31. Upon the whole, it is ſo abſolutely falſe that the Church of *England* made a departure from the Church, which is the ground and pillar of truth, as I am perſwaded it is impoſſible to prove ſhe did make the ſeparation from the *Roman* it ſelf; but that having declared in a lawfull Synod certain opinions, held by ſome in her communion, to be no articles of faith, and according to the precedent of former times, and the power God and nature had placed in her ſelf, redreſſed particular abuſes crept into,

into her, the Pope and his adherents, without ever examining what was the right of the Kingdom in such like cases, that had from all antiquity done the same, would needs interpret this a departing from the Church, because he resolved to maintain as articles of faith, & thrust on others as such, some ambiguous disputable questions the *English* did not think fit to admit into that number. To make a departure from Christs Church is certainly a very hainous offence, she never commanding ought but what is conformable to his will, nor* requiring her children to believe any thing as matter of faith, but what is immediately contained in the word of God, or by evident consequence drawn from it: and as she excludes no Christians from being her children, who by their own demerits deserve not to be out of the divine favour; so in opposing those who endeavour to procure some tenets to be admitted for hers, which cannot be deduced from that ground, we do not depart from her, but gainsay humane errours, and conceipts, which they would infer to be her commands who acknowledges them not. But as St *Augustine* in a dispute with a Donatist, [u] *utrum schismatici nos simus an vos, non ego, nec tu, sed Christus interrogetur, ut judicet Ecclesiam suam:* so may I, whether we are the schismaticks or the Church of *Rome*, *Christ* himself be the Iudge. But whether divided from the other, being matter of fact, let the histories of former times, the extraordinary proceedings of the See of *Rome* of late against the Queen and this Commonwealth be compared, and I am confident the judgment may be referr'd to any indifferent person (though of that belief) who made the separation, and whether this Kingdom on so high provocations, did any thing would not have been parallell'd by former times, had they met with the like attempts.

* Bellarm. *de justif. lib.* 3. *cap.* 8. *§ prima ratio. & ibid. lib.* 1. *cap.* 10. *§ prima ratio.*

u *Contra literas Petiliani lib.* 2. *cap.* 85. *tom.* 7.

32. Neither can the Crown in this reformation be any way said to have enterprised on the papall primacy;

which (for ought I know) it might have acknowledged so far as is expreſt or deduced from holy Scripture, or laid down in the ancient ſacred Councells, or the conſtant writings of the orthodox primitive Fathers, and yet done what it did;) but to have exerciſed that auctority alwayes reſided in it, for conſerving the people under it in unity and peace, without being deſtroyed by the Canons and conſtitutions of others; not ſuffering a forraign power ruine them to whom it owed protection. In which it did not trench upon the rights of any, but conſerved its own; imitating therein the Imperiall edicts of ſeverall Princes, and of thoſe were in poſſeſſion of this very diadem, conformable to their Coronation oath.

33. And from hence may be anſwered that which *Rome* brings as her Achilles, touching the ſucceſſion and viſibility of the Proteſtants Church and doctrine in all ages ſince Chriſt: for if theirs have been, it is impoſſible to ſay the others have not; the former adding onely more articles for a Chriſtian to believe, which the latter will not embrace as needfull: ſo that if theirs (as they ſo much glory) have had the continuance from the Apoſtles, theſe needs muſt, which onely denies ſome part of that they hold. [a] *Proteſtants* (ſays Stapleton) *have many things leſſe then Papiſts, they have taken away many things which Papiſts had, they have added nothing.* And here to my underſtanding the *Romaniſts* require of us what lies on their part to prove; for we denying in the ſucceſſion of Biſhops from *Cranmer*, *Wareham*, even to *Auguſtine*, and ſo of the *Britons*, ever any one to have held the points we differ in to have been points of faith, in that degree of neceſſity they are now required, and for proof cite not onely the *Apoſtles*, *Nicen*, *Athanaſian* Creeds, but even that of *Peckham*, which we find ſo to differ from the late one ſet out by *Pius* 4^tus^, as we cannot but ſay it is unjuſt in them to preſſe us to a profeſſion in religion farther

[a] *Fortreſſe of faith, at the end of* Bedas *Hiſt. fol.* 47. b.

farther then our anceſtors were; they on the contrary affirming all thoſe holy Biſhops preceding, not onely believed them as theſe now do, but did require them of others with the like neceſſity they now are; ought certainly to prove what they thus boldly affirm, which when they have done, truly for my part I ſhall think fit to yield: but till they do it, let them ceaſe from proclaiming us hereticks, who hold no other then the ancient faith at firſt deliver'd unto us.

But this as a point rather dogmaticall for Divines, then hiſtoricall, the ſubject I undertook, I ſhall not here farther wade into.

FINIS.

Errata.				correct.
P. 1.	lin. 1.	*more than*	*read*	allmoſt
	10	*Chriſtian*		Chriſtians
	5 15	*geneuerale*		generale
	7 18	*they addreſſe*		they *did* addreſſe
	9 1	*know*		knew
Cap. 1.	7.	*Precetor*		precentor
	47 1	*prius de fidelitate &*		prius *Romanus Pontifex* de fidelitate &
	52 4	*find as all*		find *it* at all
	67 10	*ſuffer for*		ſuffer *death* for
	79 13	*Epiſcopus & clerus*		Epiſcopi & clerus
81. in margine ad lit. f.		*Cap. 23.*		cap. 3.
141	2	*whethe*		whither
151	3	*Glaſſe*		Gloſſe
157	4	*Albigenſes*		Albigenſis
	31	*qui el*		que il.
	39	*Aſſent, de lour.*		auferatur comma
173	2	of Pope		of *the* Pope